

## MINUTES

### ECONOMIC DEVELOPMENT & RENEWABLE ENERGY STRATEGIES COMMITTEE October 12, 2011

A meeting of the Economic Development & Renewable Energy Strategies Committee of the Council of the County of Kaua'i, State of Hawai'i, was called to order by Councilmember Dickie Chang, Chair, at the Council Chambers, 4396 Rice Street, Suite 201, Līhu'e, Kaua'i, on Wednesday, October 12, 2011, at 10:45 a.m., after which the following members answered the call of the roll:

Honorable Tim Bynum  
Honorable KipuKai Kuali'i  
Honorable Nadine K. Nakamura  
Honorable JoAnn A. Yukimura  
Honorable Dickie Chang  
Honorable Jay Furfaro, Ex-Officio Member  
Honorable Mel Rapozo, Ex-Officio Member

The Committee proceeded on its agenda items, as shown in the following Committee Reports which are incorporated herein by reference:

**CR-EDR 2011-06:** on EDR 2011-03      Communication (9/9/2011) from Council Chair Furfaro, requesting the Administration's presence to discuss Bill No. 2415, relating to Real Property Tax Exemptions for Commercial Alternative Energy Facilities.  
[Received for the record.]

**CR-EDR 2011-07:** on Bill No. 2414      A BILL FOR AN ORDINANCE TO AMEND ORDINANCE NO. B-2011-732, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII FOR THE FISCAL YEAR JULY 1, 2011 THROUGH JUNE 20, 2012 BY REVISING THE SURPLUS AND APPROPRIATIONS ESTIMATED IN THE GENERAL FUND (\$5,600.00 – *Office of the County Clerk*)  
[Received for the record.]

Bill No. 2415      A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO EXEMPTIONS FOR COMMERCIAL ALTERNATIVE ENERGY FACILITIES  
[This item was deferred.]

There being no objections the rules were suspended.

Chair Furfaro: Excuse Jody I know the Chairman called you up but let me ask the Committee Chairman a question first. Is it your intention to allow the Administration an opportunity to make a PowerPoint which they distributed to us but the attendees have not seen? Or are you going to take public testimony first and then.

Mr. Chang: Well I would, George do you have any preference?

GEORGE COSTA, DIRECTOR OF ECONOMIC DEVELOPMENT: No.

Mr. Chang: Go ahead, we'll get to his PowerPoint after if that's fine.

Chair Furfaro: My apologies for interrupting you, I just wanted to get some clarity from the Committee Chairman.

Mr. Chang: No problem.

JODY ALLIONE, PROJECT DEVELOPMENT DIRECTOR, PO'IPŪ SOLAR LLC: Good Morning Councilmembers, this has been a very interesting morning, very exciting with all the cultural acknowledgments. I gave testimony last week October 5.

Mr. Chang: Excuse me Jody, you do have to state your name for the record.

Ms. Allione: I did give testimony on October 4 so I won't repeat that testimony but I would like to add a few things, clarifying and add to it if that might be allowed.

One of the suggestions I made in that testimony was that one of the considerations would be to consider Net Present Value of the lease rate over twenty (20) to twenty-five (25) years. There are some issues related to that such as confidentiality with the landlord and whatnot. So I'm just suggesting an approach if one wanted to consider that option. That would be to, when the project was ready to go through its appraisal process or whatever it did for considering how to set the tax rates, that a confidentiality agreement would be executed with the Finance Department and adequate documentation would be provided to show what the lease payments were over the twenty (20) year term. This would allow the department to provide a tax payment structure for the project's term of the lease. If the lessee was unable or unwilling to provide the documentation then it could alternatively default

to a base rate that under no condition would be less than what it was currently paying under its current land designation. I'd also suggest that we have a clause that would never allow the base rate in any case to be less than what is currently being paid on the land that the project is located on. So that's a point of clarification. I'd also like to bring up the fact that we keep hearing that we're asking for tax breaks. We are not asking for a tax break on this project. We have a tax bill that we have been currently looking at paying. Any option that this County is looking at increases the amount of taxes that we pay and I understand that and we're not protesting some modest increase in taxes. There are some properties on some kinds of renewable projects that are on industrial land. This proposal suggests that they would get a fifty percent (50%) tax break from the industrial land designation. While that's good they're getting a tax break, but it does start to appear to us since we are going to be appraised at that high industrial land designation instead of Ag that we're being asked to subsidize companies that would be on industrial land getting a fifty percent (50%) tax break. That's of concern, I just wanted to put that out there. The third issue I'd like to raise is that we have been requested to provide incredible amounts of financial information so that the Finance Department could structure their version of a proforma to try and come up with what they think would be our profit scenario based on whatever information we could give them. All I can say is that's a rather flawed approach. I don't think it's really fair, for us to use land and then have our profit structure be utilized to set a tax rate. That's like buying a house and then having the tax department say, "What's your income this year we're going to set your property tax that way." It's not appropriate for government to be trying to functionally structure our profit scenario. It's not related to property taxes. So that's just of a concern. Most companies will not reveal their proformas just because they're highly confidential for a lot of reasons. Bottom line is, if this particular resolution passes all we're asking for is a cap on a long term assessment for the projects. So if we do go to the proposal as worded it is really important for us to be able to go forward and know that we'll be capped at a certain amount. So that's my testimony, thank you.

Mr. Chang:  
Chair Yukimura.

Thank you Ms. Allione. Any questions? Vice

Ms. Yukimura: Hi, thank you Jody. You said, and I appreciate the suggestion that the problem of confidentiality could be addressed either with a confidentiality agreement with the Real Property Tax Division of the County or if a land owner/project owner does not want to waive the confidentiality there was a default position you suggested?

Ms. Allione: Whatever the base tax rate would be what I think is on the Ag rate if it's a little higher than that or if you come up with a renewable Ag designation and charge that. I'm not really suggesting one or the

other but if you did set an Ag rate, a renewable Ag rate, that would be a good base for the projects, and if you wanted to add to it an analysis of the lease.

Ms. Yukimura: Well in order to do that though we would have to know, we'd have to learn a lot more about different types of Ag renewable projects. It appears that we're moving toward, in fact I think it's in a Bill that's before us or soon to come up, to the idea of using use as the standard for assessment, the nature of use. Even if there's a vacation rental on Ag land, which is a whole issue in itself, but if you can find a legal vacation rental on Ag land, then it's taxed not according to Ag use but according to vacation rental use. As I understand the rationale of the real property tax people, we're looking at a utility use of the land, so what is the value of that?

Ms. Allione: On O'ahu and I'm not exactly clear of the wording but I know that solar is an exempted energy use. There's different designations for energy, and solar is in the passive energy designation, so it's not considered industrial use.

Ms. Yukimura: Well we could choose another category, not Ag because anyway I don't see it as an Ag use. It's not growing something from the soil which is my concept of Ag use, so it would be another use, but how we craft what that use is has to be based on our knowledge. We have so little knowledge of the functioning of different energy renewable projects. Is a growing of biomass crop going to be assessed at the same value of a photovoltaic, as the same value as a hydro all on Ag land? Do you see what I mean? If we go by use and we define an energy use category, how do we develop that parameter? It's such a new parameter.

Ms. Allione: I think O'ahu did a reasonable job and there is an energy support, the kind of land where you can put substations on and anything where it's really a passive use. I think that might be an area where you could look into, a passive, solar is passive, hydro run of the river is passive, wind is passive. Some of the biomass projects, and I've worked on a lot of them so I understand what that is, but there's a substantial active use on a biomass project or on a waste to energy or things like that we're you're using the roads and services of the County. Much higher use than a passive use. Substation is (inaudible)

Ms. Yukimura: Okay highest and best use is the standard of our real property assessment but it's not amount of activity, it's usually the value of the activity. I don't know all the factors that go into the value although I'm guessing that's the appraisal process and it may, and I'm going to ask a question of the real property tax division about whether income at some level is part of the assessment for resorts for example. Otherwise for residential land it's how much you can value in terms of how much a willing buyer would pay to a willing seller. I'm probably as confused as you look right now in terms of how you assess value.

Ms. Allione: That's why I proposed the lease value because what we're willing to pay on that land, that particular land with all of its issues and problems is what we're paying for twenty (20) years?

Ms. Yukimura: Yes and that has some sense to it to me, but we would have to ask the, it has to fit into the whole assessment and process. That's why I'm not sure the base tax rate for Ag would work.

Ms. Allione: No, it's higher. It would definitely come out higher than the base use for Ag. There's no question, and we're willing to pay that. I was not willing to pay much more because I had to look at all the parameters and understand what the taxes were, what the issues were, what the land was made of, what the radiation was, etc. We arrived at a tax rate and that I think is a fair value for twenty (20) years.

Ms. Yukimura: And I think that's what we're all grappling with – what is a fair value? And how do you determine it, and does income have no bearing?

Ms. Allione: No.

Ms. Yukimura: I don't know if, I mean I think it might. Do they use that in resort assessments, I don't know, or other commercial properties I don't know either.

Ms. Allione: I don't know how they come up with taxes on various parcels but income is a very difficult one to work with.

Ms. Yukimura: Highest in value and best use as I understand it is how much a willing buyer is willing to spend and pay a willing seller and income does play a role in that. We're all trying to figure this out.

Ms. Allione: Well that would be extremely problematic and would probably put a serious stop on this project for us if we were to really open up our books to the entire County. It's not going to happen.

Ms. Yukimura: I'm not suggesting that, I'm not suggesting opening books I don't think that is the way either. But there may be other ways of assessing income without opening books.

Ms. Allione: Yes. Yes. This is an issue we grapple with across the board. One of the issues that you did bring up on the question of risk, product production risk is a huge one for us. We're trying to figure what the solar

radiance is going to be for the next twenty (20) years. Global change, god knows, it looks like it got cloudier to me. That is a concern.

Ms. Yukimura: I think I've heard the projections are more sun and less trades.

Ms. Allione: I've actually put solar on my house and it's gotten worse over the past two (2) years.

Ms. Yukimura: Okay, well anyway, thank you very much.

Ms. Allione: Okay thank you.

Mr. Chang: Hold on for just a second Ms. Allione, Councilmember Bynum did you have a question.

Mr. Bynum: Yes I did.

Mr. Chang: Go ahead please. Excuse me Mr. Bynum, first of all I just wanted to let everybody know in the viewing audience back there we have a brand new system and the system of the mic is very very sensitive so conversation in the back is actually being picked up. I just wanted to remind the audience. Thank you, go ahead Mr. Bynum.

Mr. Bynum: Thanks for being here today. In your testimony you said the County is asking for all kinds of financial information?

Ms. Allione: Yes.

Mr. Bynum: What kind of financial information?

Ms. Allione: Data about our costs, our revenues and basically our operating costs as projected.

Mr. Bynum: So it looks to you like they're looking to know your whole proforma?

Ms. Allione: To generate a pro forma to make sure that we're not making excess profits at the expense of the property tax department or property taxes.

Mr. Bynum: So just for myself and for the public, proforma means your business plan, your projections of cost and return on investment, that kind of thing correct?

Ms. Allione: Yes.

Mr. Bynum: And so you're saying, "hey if you want to know a portion of what our lease payments are that's reasonable, but to ask for our whole business plan is unreasonable."

Ms. Allione: Yes.

Mr. Bynum: As you went in to this did you go in with the assumption that the underlined zoning would remain the same?

Ms. Allione: Yes, as it does in the rest of the State.

Mr. Bynum: As it is in the rest of the State?

Ms. Allione: Yes.

Mr. Bynum: I'm still trying to get clarity on that myself about what happens in O'ahu for instance who passed the legislation several years ago correct?

Ms. Allione: Yes.

Mr. Bynum: I know that I've been interested in this legislation for a while and my assumption too was that the underlying zoning would remain the same. If I understand your concern, it's you expect by changing it to Industrial even with a fifty percent (50%) exemption, that it's going to be higher than your business plan, that it will be higher?

Ms. Allione: On my testimony on October 4 I attached a sheet that showed the impacts in what we're paying now to what it would be under various re-assessments.

Mr. Bynum: So is it possible if this were to pass in the current form that your decision would be to not proceed with the project?

Ms. Allione: I could proceed with the project if we were assured of a cap. So I'm hoping that we ended up with some reasonable assessment, square-footage per square-footage. We were told this law went through if we were told we would not be subjected to an annual re-assessment which puts the greatest level of uncertainty on us, then if that were to happen, I'm not quite sure we could go forward.

Mr. Bynum: I'm just kind of brainstorming here. My first reaction to your proposal is I think we want to avoid giving the tax department specific different types of assessment to require them to assess different land in different ways. We have that now in a timeshare situation which may have caused inequities over the year. But, I know I went into this with the same assumption that the underlying zoning, so what I think is not at dispute is that any improvements on the land would be exempt from taxation. The assessed value would not include improvements.

Ms. Allione: Yes.

Mr. Bynum: That's your understanding as well?

Ms. Allione: Yes.

Mr. Bynum: It's really the underlying land and its property tax that you're concerned about?

Ms. Allione: Absolutely.

Mr. Bynum: Okay. So if you had a biomass plant that was going to produce electricity for biomass, it would have a relatively small footprint but a very high development cost. So it might be a \$60 million plant so in that proforma the property tax would be a relatively small portion of the business plan right?

Ms. Allione: See in O'ahu for instance the solar is specifically exempt. I'm not sure on any biomass projects whether or not the facilities are exempt.

Mr. Bynum: And the reason I'm going there is I just want to contrast that solar seems to me to be of large footprint but not that much plant.

Ms. Allione: Right.

Mr. Bynum: Not as expensive as doing a boiler and a generator and all of that right?

Ms. Allione: But expensive enough.

Mr. Bynum: Right, expensive enough.

Ms. Allione: Solar is pretty expensive. Per acre it's not, but overall the investment is very high if you're solar.



Mr. Bynum: Understood, but it takes a larger footprint?

Ms. Allione: Right.

Mr. Bynum: And so if that land is taxed higher that makes it difficult to get a return on an investment and make the project pencil out.

Ms. Allione: Correct.

Mr. Bynum: I just want to make sure I understand your testimony.

Ms. Allione: Yes, correct.

Mr. Bynum: The initial draft that we received of this did not change the zoning so the one that got sent over did and I think that's going to be the crux of the discussion today. What are the de facto impacts of that on a project by project basis. My last question is, in your testimony you were saying – if an investor chose to place their project on investor land they know that going in, and so if we exempt fifty percent (50%) of that it's going to be a big benefit to that individual.

Ms. Allione: They would get a benefit. I might have looked at industrial land had I realized that that was going to happen but I have been chasing energy projects in the state for twenty (20) years and one of the big deals that I consider is: what kind of land am I building on; is it appropriate for the use; what are the long term underlying costs such as taxes. Some projects require industrial land or special use permits to become industrial land. Solar has always been, look for class D & E Ag land.

Mr. Bynum: And then just my understanding of when the County asks for financial information because we do have exemptions for property taxes for low income individuals and (inaudible) petitioning the County to reduce their taxes, and so providing their financial information provides them a benefit. So I think, but I'm not aware that we had asked, I think that answers your question or we can ask the tax people. We don't ask resorts what their profit margin is to determine their property tax rate; we do it on assessment value times the rate that is established by this County Council.

Ms. Allione: Right.

Mr. Bynum: Thank you for your testimony.

Ms. Allione:

Thank you.

Mr. Chang: Councilmember Nakamura did you have a question? I just wanted to let everybody know, we've circulated her testimony for October 4 which she submitted, so if anybody needs to refer to some of her statements from October 4, that is circulated. Councilmember Nakamura go ahead please.

Ms. Nakamura: Hi Jody thank you for being here today and for giving us your testimony and for clarifying your previous testimony. I appreciate that it's in writing and that you have specific alternatives presented and I have sent a communications to the Administration through the Chair to respond to your three (3) suggestions. I'm not sure whether they'll be here, or prepared to do that today but the communication has been sent.

Ms. Allione:

Okay.

Mr. Chang: other questions? Council Chair.

Thank you Councilmember Nakamura. Any

Chair Furfaro: Thank you. Just to summarize this, I think part of the dilemma that the County is working with is, as we explore this new territory I guess what I'm hearing in your comment is you understand for us to get re-investment money, we should at least at this point until we understand all the other impacts at least remain revenue neutral; if land is Ag then we'd like to see the project proceed under that tax category.

Ms. Allione:

Yes.

Chair Furfaro: But there was something in your statement when you said that and I want to revisit it because at some point energy will compete with food, energy will compete with cattle, energy will, there will be competition between energy and food production. But I heard you Jody say that if it was on D & E land which are the least productive of our agricultural lands by the grading and certainly those lands that are being identified as important Ag lands are A & B classifications. Since across the State the land use commission grades all Ag lands the same way your references to O'ahu, are most of those solar projects on D & E lands?

Ms. Allione: Yes. We are looking at other sites because the State recently allowed Class B land. I prefer to build on D & E because I am concerned about food production.

Chair Furfaro: But for me it is a very important overall approach to or sustainability.

Ms. Allione: Yes.

Chair Furfaro: I heard you say that, and I did hear you say that earlier in your testimony.

Ms. Allione: Yes.

Chair Furfaro: D & E lands.

Ms. Allione: D & E lands are preferred for solar.

Chair Furfaro: Okay, thank you Mr. Chair.

Mr. Chang: Any other questions please, go ahead  
Mr. Bynum.

Mr. Bynum: Just a follow up, in the 205 the State, solar is an outright allowed on D & E lands and the legislature recently included B & C in that right? Did that make the permitting process easier that the State law outright permit?

Ms. Allione: Yes it does, it makes it easier to proceed. I have only focused on D & E so someone had a special interest in B and that's why it got passed and I'm not quite sure where that came from. Quite honestly it kind of caught a lot of us by surprise. It was a, I didn't, I thought it was just concerning.

Mr. Bynum: So your impression was that that change happened to benefit one particular project?

Ms. Allione: I don't know where. There may have been several projects that said -- look, the best land for sun is on B land and we should be able to use it. I honestly can't give the history because it caught it. It was one of the few that sneaked by.

Mr. Bynum: And then the chart that you provided on October 4, the current tax on the land that you're considering is about 5,000 revenue?

Ms. Allione: Roughly yes.

Mr. Bynum: And then on the table, I want to make sure I understand it is saying if it were appraised at \$4.00 per square foot, or 6 or 8 because you're not sure, at 4 being a low end assumption and 26 being the high end, even if we took the low end assumption, even with the fifty percent (50%) exemption, the taxes on the land would go from 5,000 to 12,000?

Ms. Allione: Yes.

Mr. Bynum: And you don't know what the assessed value or what assumptions the tax department will make in terms of... So that's why you've given us a range is that correct?

Ms. Allione: Yes, because if it was appraised at the highest recently sold piece of industrial land we're out of it.

Mr. Bynum: Right so if it were mid-range and the taxes were 24,000 that might be a deal killer?

Ms. Allione: We can live with that if we have a cap.

Mr. Bynum: Okay, thank you.

Ms. Allione: The cap is the underscore here.

Mr. Chang: Thank you Councilmember Bynum, go ahead Councilmember Kualii to be followed by Councilmember Rapozo.

Mr. Kualii: Aloha and mahalo for being here Jody. Actually you just said cap and that was what I wanted to ask about because you said if this proposal were to be passed you would need a cap on the long term assessment and that would be a fixed percentage. Did you have a percentage in mind or a range of percents?

Ms. Allione: Pretty much everything we're working with is between two and three percent.

Mr. Kualii: Two and three percent, thank you.

Mr. Chang: Councilmember Rapozo.

Mr. Rapozo: That was the question that I had. Really was about the cap and there's got to be a, we have to tie it to something I mean with the cost of living, the CIP (sic) index would be something that you would. Obviously that wouldn't be arbitrary.

Ms. Allione: Right, yes.

Mr. Rapozo: Those things will get difficult in legislation when, how did you get two percent (2%) and how did you get 3, why not 4, why not 1? And then there was a, and I think it just slipped me so it'll come back to me when someone else is here. Thank you.

Mr. Chang: Any further questions for Ms. Allione, if not thank you very much for your testimony. I believe the next registered speaker was Teddy Kawahinehelelani Blake.

TED KAWAHINEHELELANI BLAKE, EXECUTIVE DIRECTOR, MALAMA O KŌLOA:

Thank you Mr. Chair and members of the Council, my name is Ted Blake from Kōloa. Two things I know about having photovoltaic projects on Ag land, the State allows approval of using Ag land for photovoltaic projects – D & E land. Photovoltaic projects, they're tax County services, no trash pick-up, no road maintenance, no road repairs, no traffic congestion, etc. That being said, let's look at a situation that can very well happen. We have a developer that has worked with the community without any arm twisting by the community. They came forward and they said we'd like your opinion on what we're doing, and your suggestions. This photovoltaic project shares 1,800 linear feet of a common border with Hapa Trail. We're finalizing plans with the developer to plant indigenous Kōloa plants that are drought and wind resistant to the landscape between the buffer project and Hapa Trail. This is beyond the project's scope and is being totally funded by the developer. We're also finalizing plans to construct a dry stack wall around a 1,280 foot linear perimeter of a burial cave. Funding for the burial treatment plan is by the developer with help from the landowner of Knudsen Estate. We recently had 19.5 miles of County roadways that loop around Kōloa designated as a State byway, a first for Kaua'i. We're working on a quarter management plan for submittal to enhance a 19.5 byway to pursue a national designation to allow us to get eighty percent (80%) funding for improvements and enhancements to this byway from the Federal Government. This will be similar to the local economy and instill pride in our community and showcase our history and our heritage. Hapa trail plays a big part in this plan. The \$500,000.00 Kōloa-Po'ipū area circulation plan which you are familiar with was a community driven plan and a community funded project to address pedestrian and traffic safety and the tidal wave of development we were experiencing since 2005. After being shelved for four (4) years we finally see that this will be incorporated or we've been told this will be incorporated in the Kōloa-Po'ipū-Kalāheo re-development, I mean a development plan update. Hapa Trail is the focal point of this plan. Po'ipū Solar is contributing to this vision at their expense, landscaping 14% of Hapa Trail with native plants, utilizing nurseries from the National Tropical Botanical Garden and specialty nurseries, and have also adopted the position of

honoring our kupuna's burials. Taxing Po'ipū Solar without a fixed rate jeopardizes their community driven plans. The rate paid for the electricity they generate to sell to KIUC is fixed for twenty (20) years with no built-in step-ups or re-negotiation. Worst case scenario is that their tax assessment could escalate every year because their assessment is tied to the latest bill of industrial property. I see this bill as an incentive for photovoltaic farming to someone who has got industrial land. For a guy that's sitting on Ag land, I see this as not being an incentive. Normally you'll hear about these type of situations after the law goes into effect but it's going to, everything we've been working towards in Kōloa by the community, with the community, before the community comes to a roadblock when we see something like this come about.

Mr. Chang: Mr. Blake, sorry to interrupt but that was, you passed your first three (3) minutes but go ahead and continue please.

Mr. Blake: So, I see a tax advantage for those presently zoned industrial lands, these industrial land owners should receive consideration presently before there is even any incentive that encourage photovoltaic projects on industrial land. However, those that are going about doing this on Ag land I see this as not being an incentive. That's all I have to say. Thank you.

Mr. Chang: Thank you Mr. Blake. Vice Chair Yukimura you have a question for Mr. Blake? Go ahead please.

Ms. Yukimura: So Teddy if we keep it at Ag rates how do we assure that other renewable energy projects will actually give benefits to the community?

Mr. Blake: I hope that what Po'ipū Solar is doing sets a higher standard for other developers. The arm didn't work in Kōloa and the charm sure didn't work in Kōloa with developers and this one just came about and stepped forward and did it on their own. I mean, it would be nice if you could do that because we have a big problem with our archaeological insensitivity and to our archaeological sites, our history, and our culture right now. You guys just talked about how wonderful it was seeing these children 'ōlelo in Hawai'i, this is where it starts.

Ms. Yukimura: Well you know I appreciate so much any help that a landowner or developer will give to the community. I know how hard you've worked on these projects. But to incorporate that into a tax, a real property tax assessment process is difficult by the fact that you're not sure all the other developers will... It won't make the developer do that and maybe it's better just to take a higher tax according to exact principles and then give grants directly to you folks.

Mr. Blake: Let's look at the other side of the coin on this. The amount of money you've been making by assessing them a higher tax over twenty (20) years is going to be far overshadowed by the economic stimulant that it'll bring Hapa Trail and other things in our byway designation will bring to the County. At some point in time you're going to have to look at it and say – you know, did we make a mistake in this? And I'm not here to tell you how to run it, how to do it, but this is something you should be considering. We have and you guys know what we've gone through in Kōloa and I would not wish this on any other community in the State of Hawai'i. Something coming about like this you have to go back and look at it and say, "now we're going to stick it to Kōloa one more time?"

Chair Furfaro: I'm a bit offended that you would imply this Council.

Mr. Blake: I'm not trying to offend you. But this is a perception that when you talk to people about Kōloa they'll you the thing is you know, and Po'ipū, over developed, too much development, etc., etc. We've been working hard, we've been working hard to make lemonade out of this and I think we're on the right track. But when something like this comes about and is set before us not every citizen akamai about government. This is another frustration that adds to that and I'm not offending you at all Mr. Chair, please believe me.

Chair Furfaro: Teddy I heard what I had to say, you heard my response. You can talk about Kōloa here but the agenda item is about energy. I don't want to, as many of us here on the table that have come to participate in the issues that are truly Kōloa issues, but please I was offended about that comment that directed specifically at Kōloa.

Mr. Blake: I'm sorry for offending you.

Mr. Chang: Does anybody have any questions for Mr. Blake please? If not, Teddy thank you very much.

Mr. Blake: Thank you.

Mr. Chang: Do we have any other registered speakers thereafter?

IHILANI LAURETA, SECRETARY, COUNCIL SUPPORT DIVISION: Our next registered speaker is Jerry Ornellas followed by our last registered speaker Kurt Bosshard.

Mr. Chang: Good afternoon Jerry.

JERRY ORNELLAS, KAUA'I COUNTY FARM BUREAU: Good afternoon Chair Furfaro and Committee Chair Chang and members of the Council, my name is Jerry Ornellas. I am here representing the Kaua'i County Farm Bureau today and in that capacity and I have to tell you that the Farm Bureau supports the adoption of the amendments to Bill No. 2415. Having said that, we would much prefer that industrial uses of land take place on land already zoned for that purpose. However, we do realize that we probably do not have enough inventory of industrially zoned lands to accommodate all of the projects that are in the pipeline. However, this is happening if we look at the project that A & B is proposing for Hanapēpē, that solar project is taking place on industrially zoned land. I want to put something to rest, it's a misnomer to call it a solar farm, it's not a farm. Voltaics are an industrial process and they have to be recognized as such. Failing that what we need to do, I think the County really needs to look at putting these projects as it has been mentioned earlier putting these projects on lands that are marginal which would include D & E lands. The reason we support this amendment to the Bill, these amendments to the Bill is because it recognizes and it makes a distinction between agricultural use of Ag land and industrial use of agricultural land. It does this in two ways, it provides a use permit and it does it to check taxation and I think that it's very important that we don't confuse these two (2) issues. We're very concerned that this Bill No. 2415 will be watered down in some way and we want to do our part to make this island energy self-sufficient. We realize that agricultural lands are going to have to go into these types of activities and we really think that a 50% exemption from real property tax is generous. But if you go to Section. 3, item 3, this is very interesting: Future land assessments will be valued according to the land's industrial market value. This issue came up earlier and I think these people have a valid point. If you look at the contracts, there's a contract between the supplier, between the provider and the distributor, these contracts are approved by the Public Utilities Commission. As Chair Furfaro pointed out earlier, they're locked in often times for twenty (20) years. If you're going to raise taxes within the next twenty (20) years on these properties, these operators will not be able to raise their rates because they're locked in. So I think this is going to be problematic going forward, I don't know how you fix it but I'd be happy to answer any questions if you have any.

Mr. Chang: Excuse me, thank you Mr. Ornellas, does anyone have any questions for Mr. Ornellas. First Councilmember Bynum go ahead followed by Vice Chair Yukimura.

Mr. Bynum: Thank you for being here. On D & E land, Ag land designated D & E, alternative energy has been an outright approved use by the State for a long time. When you heard the testimony basically saying that on D & E lands they're currently paying around \$5,000.00 in taxes but at the best case



scenario they think that they will go to 12,000. I guess just to ask an open ended question, what's wrong with leaving them at five on D & E lands?

Mr. Ornellas: I think Council person Yukimura alluded to this earlier. What are these properties generating in revenues? If a farmer has a return of \$10,000.00 on an acre of land and a photovoltaic operation has a return of \$50,000.00 why shouldn't they be taxed at a higher rate? We have to compete with them, we are facing urbanization of our Ag lands, we're facing gentrification of our Ag lands, now we're going to be facing industrialization of our Ag lands, what next?

Mr. Bynum: Okay, thank you.

Mr. Ornellas: And I do believe that we can accommodate a reasonable amount of alternative energy projects on Kaua'i, I think we do have the resources to do that, a reasonable amount.

Mr. Bynum: I think it was nice to hear from Mrs. Allione that she even as a developer had a problem with looking at B & C land. That was recent news to me that the Legislature changed that and I'm just kind of curious why that would happen because there are a lot of lands zoned Ag that are really not appropriate for return on investment Ag. You know this history, it kind of got lumped in there so I think it's important to incentivize alternative energy to keep us less dependent on oil, to keep our costs low and I thought our intention was to do that incentive. Do you think in the long run Jerry that solar is a real threat to food production and that the use of Ag lands for solar is a significant threat to Ag lands being held for Ag purposes?

Mr. Ornellas: I think that we're going to top off pretty quickly as far as solar projects go. It's not considered firm power right?

Mr. Bynum: Right.

Mr. Ornellas: Therefore only a certain percentage of the electricity produced on Kaua'i can come from that kind of power because it doesn't work at night unless you're doing solar collectors. They're going to top off pretty quickly. I know on O'ahu in any given electrical grid sector it's only fifteen percent (15%). I don't know what KIUC's policies are going to be but already on O'ahu we have districts and areas that are already maxed out, the company will not take any more solar.

Mr. Bynum: Okay, so my question was do you think the development of solar on D & E lands is a significant threat to having farmable land available for other purposes?

Mr. Ornellas: On our marginal lands I do not consider it a significant threat, on marginal lands. But just like people who build homes or developments, the easiest land to build on is land that is leveled and those tend to be our more valuable agricultural lands.

Mr. Bynum: Right, okay, thank you.

Mr. Chang: Thank you Councilmember Byum, Vice Chair Yukimura.

Ms. Yukimura: Yes, so Jerry thank you for your testimony. You said that the Farm Bureau prefers to see the projects on industrial land and you acknowledged also that there may not be enough industrial land, so it seems that from a land use standpoint it, would be something appropriate for the Planners to look at increasing industrial zoned lands through the community plan process or the General Plan process?

Mr. Ornellas: Not necessarily. This alluded to something you said earlier when you talked about, and so did someone else, I think it was Tim, talked about how much actual industrial area these different alternative energy projects take up right? So a plant that is going to be used to create liquid bio-fuel would take up a relatively small parcel of land. Something that is growing, say you're growing sorghum, that's going to take up to thousands of acres or trees or bio-mass types of projects. The land remains in agriculture. The only portion of the land that goes into industrial is the footprint of the plant itself, the rest of the land remains agriculture. So we're talking about two (2) different things when we talk about photovoltaic and we talk about bio-fuels because they're not really that compatible. Photovoltaics, it's an industrial endeavor, it doesn't have to do with agriculture.

Ms. Yukimura: So there's a certain logic in taking D & E lands and through a use permit process, a process which examines the appropriateness and the surrounding uses and all of the context and then allowing that process to make land available for, say photovoltaic projects. But that's separate from how we would assess it and you've raised some of the questions of assessment by Ag value. So for you I guess in supporting this bill you think industrial as a category makes more sense for solar and photovoltaic projects?

Mr. Ornellas: Of course, yes.

Ms. Yukimura: Okay I understand.

Mr. Ornellas: As far as assessments go you would never tax the hotels at the rates you tax them at if you didn't know what they were making right?

Ms. Yukimura: So you're saying that income is a logical input into the assessment process?

Mr. Ornellas: Otherwise the farmers are going to face an uphill battle with neighbors that make ten times what they're making and there's not much to keep this thing from spreading and saying okay well we're going to do more and more and more.

Ms. Yukimura: That is the same issue with vacation rentals.

Mr. Ornellas: Yes, absolutely.

Ms. Yukimura: It puts the Ag land at a higher premium than farmers could ever afford to farm. Okay, thank you.

Mr. Chang: Thank you Vice Chair, any further questions?

Mr. Rapozo: I'm a non-councilmember (sic).

Mr. Chang: Okay hold on just a second, Councilmember Nakamura and then Councilmember Rapozo.

Ms. Nakamura: Thank you for being here Jerry and providing this insight. I wanted to ask you in your testimony, written testimony, you mentioned you urged that they be sited on, for renewable energy projects take place on Ag lands; we urge you that they be sited on D & E lands rather than prime Ag A & B lands.

Mr. Ornellas: Yes.

Ms. Nakamura: In your verbal testimony I heard D & E lands only.

Mr. Ornellas: I think we could accommodate some of these projects on C lands.

Ms. Nakamura: Okay, C would be okay.

Mr. Ornellas: I'm sorry for that discretion.

Ms. Nakamura: No no, and I for members clarification I was looking at the Chapter 205 regarding Ag lands and it sounds like that the solar energy facilities are allowed on B, C, D, & E but for B & C lands it has to support an Ag operation on that property, so that's the distinction.

Mr. Ornellas: In fact, in an ideal world, in my world, what would really work is power production that is ancillary to a farming operation and we sell off the twenty percent (20%) that we're not using because then we don't qualify as an industrial operation. In the real world I think this would work really well where it's ancillary and the farmers actually benefit from producing energy, probably not likely to happen.

Ms. Nakamura: Thank you Jerry.

Mr. Chang: Before we move on to Councilmember Rapozo can you just repeat your last statement what you just said, if it was an ideal world, what did you say?

Mr. Ornellas: If it was an ideal world we would have farmers producing energy rather than pure energy companies producing energy. Farmers would then sell the excess energy. Farming operations often require a lot of energy in their own right. You take the seed industry, they have a high powered driers, in the case of vegetable farmers they have hydrocoolers, they run refrigeration, so it'll make sense for them to generate power, sell the excess power and that would help to supplement their income. Yes in an ideal world. I'm a farmer so that's my opinion.

Mr. Chang: Councilmember Rapozo.

Mr. Rapozo: Thanks Jerry, thanks for being here. I know what it is, you're here to testify on behalf of the Kaua'i Farm Bureau but you have your personal...

Mr. Ornellas: That's correct, don't kill the messenger.

Mr. Rapozo: I guess Chapter 205 was set up to protect and preserve ag and that's no secret. One of the differences between vacation rentals and solar projects is that Chapter 205 doesn't have a provision that allows vacation rentals, it now has solar projects. The other thing is, with the addition of B lands, I think for whatever reason, whoever they're trying to help I mean I think that was wrong. Let me just say that upfront because again we're removing inventory from the farmers. When do you recall, Jerry, sitting here testifying on

behalf of the Farm Bureau regarding a County Council or Administration's efforts to give the farmers a fifty percent (50%) tax credit? Has that ever occurred?

Mr. Ornellas: It's never occurred, although I must say that the farm dedication program works quite well.

Mr. Rapozo: Correct, but I'm talking about tax...

Mr. Ornellas: That did occur to me that that very thought occurred to me earlier listening to prior testimony that fifty percent (50%) is a generous...

Mr. Rapozo: But it's pretty clear that what this State is moving away from, although we would never admit it, is farming. It's sad and it's scary. Having said that though, and I would agree I think C & D lands would be appropriate I think because obviously farmers is very difficult to generate any kind of revenue from those lands and why let it sit and not create any revenue? My question I guess for the Farm Bureau is, because hearing you testify that the fifty percent (50%) and the bill as it stands is you support it.

Mr. Ornellas: We can live with it let me put it that way.

Mr. Rapozo: And I know you're speaking for the Bureau.

Mr. Ornellas: Yes.

Mr. Rapozo: Now, the concern and I share that concern with the developers is that without any kind of clear stability or expectation on where it's going to go I guess I'm troubled that the County is asking – hey give me your books so I can figure out what is the most I can charge you. That's what it kind of sounds like, and we'll get property tax up here and find out why they do that. Hearing their testimony that if we could give them some kind of assurance of a cap, like we did with the residential cap, is that something that the Farm Bureau and if you need to go back to them that's fine as well. But I think the cap basically is a compromise but it also gives them some kind of assurances that next year their taxes are not going to jump twenty percent (20%) or fifteen percent (15%) whether it's tied to the CPI or it's tied to a fixed number that somebody can tell us what is correct. I guess I'm curious to know what the Farm Bureau's position on that would be.

Mr. Ornellas: You know we're farmers but we're also businessmen and as I pointed out earlier, these guys are locked into contracts that they cannot get out of, they cannot get an increase because it's (inaudible) regulated. I understand their predicament and it's going to come down to tax

appeals, they're going to say you cannot, if you raise the taxes we're going to close up, there's nothing we can do.

Mr. Rapozo: Is that something you could come back, I don't expect this to pass and I cannot vote on this in the committee because I'm not on the committee, but I'm assuming it will get deferred and if it does I guess I would ask what the Farm Bureau's position would be on setting some kind of cap on the tax bills. Not so much assessments because we really cannot control the assessments, the market determines that.

Mr. Ornellas: Right.

Mr. Rapozo: I guess it's troubling because in a perfect world you have a budget, you have operating expenses and you have your budget, and then you set the taxes based on what you need to complete your budget. I don't want this to be a free for all attempt by the County to go out and see how much money we can squeeze from, regardless if it's farmers, solar project owners, residential housing builders. Taxation is based on fair and equitable assessments, I mean that's what it's supposed to be not how much can we get, and I think that's going down the wrong road and we'll get the property tax people up here to clarify that. But that will be my only question is that if in fact the bill as it's written moves forward, would the Farm Bureau be able to support a cap?

Mr. Ornellas: I believe so I'd have to check with our Board, but I believe so. Like I pointed out earlier, these people cannot raise their revenues. If you're doing regular industrial endeavor you can raise your prices. These guys are going to be locked in, they cannot raise their prices. Correct me if I'm wrong but I wouldn't assume to question the Administrative's motives, they may be looking for this information so they don't overcharge these people.

Mr. Rapozo: That's true.

Mr. Ornellas: Rather than trying to..

Mr. Rapozo: That's a politically correct thing to say but I just want to make sure that we're being fair and equitable. The other thing too is that I'm sure I would assume based on your testimony that the Farm Bureau would not support any type of incentives on A & B land.

Mr. Ornellas: No.

Mr. Rapozo: Your testimony as I read it basically says fine, but if they're going to encroach on A & B then you don't support the fifty percent (50%).

Mr. Ornellas: For PV, other endeavors might be different.

Mr. Rapozo: No, yes, we're only discussing the PV today.

Mr. Ornellas: Okay, yes, yes.

Mr. Rapozo: Okay thank you.

Mr. Chang: Thank you Mr. Rapozo, Mr. Ornellas thank you very very much. Mr. Bynum if you have a very quick question.

Mr. Bynum: It will be very quick. I'm just getting a little confused on the (inaudible) to B & C is that correct?

Mr. Ornellas: Correct.

Mr. Bynum: So, because some people are saying C, D, E, so I'm thinking and I believe the Po'ipū Solar people said they're on D & E right?

Mr. Ornellas: Right.

Mr. Bynum: So if we make that distinction I just want to know where that line should be.

Mr. Ornellas: A & B lands are the best lands we have.

Mr. Bynum: Right.

Mr. Ornellas: And provide the best return for the farmers so those are the lands we really need to preserve.

Mr. Bynum: And I don't know this (inaudible) what's the distinction between what's a C land is it...

Mr. Ornellas: It's a little confusing for everybody because there's various classifications of agricultural land. ALISH which is agricultural lands of importance to the State of Hawai'i came up with that A, B, C designation and Nadine can tell you that the University has the only classification system. But we generally talk about A, B, C, D, and E lands and those we like to use that designation because it does take slope into account and some of these other designations don't take slope into account, only soils and so on.

Mr. Bynum: So when you use the term marginal lands, is that C, D, and E?

Mr. Ornellas: I farm on marginal lands so I know exactly what (inaudible). All of our local farmers do because the best lands are always taken by the plantations.

Mr. Bynum: Right.

Mr. Ornellas: So now we have a chance to get on some of these lands and you know we would hate to be denied.

Mr. Bynum: Okay so I'm just still looking for that dividing line. Should it be...

Mr. Ornellas: I think A & B absolutely should be untouchable. I would prefer D & E of course but I think in some cases C might be appropriate.

Mr. Bynum: Okay thank you.

Mr. Chang: Thank Mr. Ornellas, committee members and councilmembers it's time for us to take a lunch break so what we're going to do is, there's a lot of people here, there's Administration – George, Mr. Costa, Mr. Sato has a presentation, we have Steve Hunt here, so we have members of their committee out there so we will reconvene back at 1:30pm after lunch break, this meeting is in recess thank you very much, we'll see you at 1:30pm.

There being no objections, the meeting was recessed at 12:35 p.m.

The meeting reconvened at 1:45 p.m. and proceeded as follows:

There being no objections, the rules were suspended.

Mr. Chang: Good afternoon ladies and gentleman, we're back from recess. If I recall correctly, Mr. Bosshard you were on the stand, thank you very much. Kurt Bosshard, and the last discussion we were continuing to have a discussion, does any members have any questions for Mr. Bosshard?

Mr. Bosshard: (Inaudible)

Mr. Chang: Okay go ahead.



Mr. Bosshard: I don't argue with the ranchers or farmers, I respect Mr. Ornellas's testimony and thank him for his input. I think farming is important..

Mr. Chang: You know, Mr. Bosshard, why don't you go ahead and start again.

Mr. Bosshard: I'll repeat myself because I do want to say this. Kurt Bosshard, Kapa'a Solar. I don't argue with the farmers and cowboys and I respect what Mr. Ornellas had to say and I think that it's important to hear that perspective.

I feel to some extent that solar people are getting lumped into the larger operations, the biomass and the hydroelectric. You're not going to have enough solar activity here to have any impact on land -A, B, C, D, or E, agricultural lands. The only place where you can put solar is next to a big power pole and you can't get too far away. It's all going to be right there. As it turns out here now KIUC is going to put in a big solar facility that's going to take up most of the solar activity on the island. The reason, and I again I'm going to reiterate, please do not peg this to industrial value. There aren't sufficient industrial lands here to have a reasonable value for industrial land. I've given you the evidence of what the abuse will be of the tax assessor's office. Four acres of C, D land, or what mine is on, Mr. Hunt had it assessed at \$400,000.00 per acre until I appealed. It was being taxed at \$16,000.00 per acre. At the hearing he dropped it to \$2 million for four acres, \$250,000.00 per acre for totally un-improved, unused land next to Olohena Road. He passionately defended that opinion at the tax appeals board and they came up with roughly \$800,000.00, 800,000.00 with no use on County facilities at all, from \$16,000.00 per acre. If that's how it's going to be done, even if they reduce the value by half, it's still an endless fight over the assessed value. Now take into account we're at the very low end of a horrible real estate market, so what would this have been five years ago? Two million dollars for my facility? Two and a half million? Fine, you guys will make the decision on how you want to approach this issue. Some may seem confident that this is going to just take over the island that there's going to be a lot of alternative energy projects. I don't happen to agree with that, I hope there are, but that is speculative. The attitude of every other part of the County and the State and the Federal is: We want to have these projects. When you run into the tax office: We want to drill these projects, we want to shake them down. I would call this the Alexander & Baldwin Tax Relief Act, this whole thing the way that it's structured is for Kaua'i's big land owners. Where are they, they're not here because A & B is going to get them a fifty percent (50%) reduction in their taxes on their industrial land. Nobody else has industrial land that's right next to the road, that's right next to a power line. Where are the biomass people? I asked a question, are they going to be allowed to Ag dedicate 1,000 acres and pay no tax on that, or relatively no tax? And their five acre warehouse will pay what I pay because I'm

four acres and I'm paying four acres industrial? Well, they're going to build a hundred million dollar plant, or fifty million dollar plant and pay the same amount of real property taxes as me, is that what this is set up for? I don't know. I can tell you the reason they're not here is because the land value that I'm on is \$16,000.00 now and the way it stands right now, that's the per acre value where it stands right now has been jacked to \$200,000.00 per acre. This audit of a person's, a business person's tax returns and proformas and all that stuff, I'm not familiar with that. I guess some of you may be in taxing real estate but this is a twenty year investment. My return won't be known for twenty years. Apparently everybody thinks this is a slam dunk and there's money that rolls off, that gross revenues mean something but when you've got five million dollars into a project, gross revenues, you got your operating expenses, the cost of the money, and all the other factors that are involved in having a business investment. Let me tell you that somebody like me doesn't just sit there and count the money, we go out and hustle every day just to try to shave costs and to provide jobs and pay taxes. What other taxes are you going to get out of this facility? Income taxes? Gross excise taxes? Those money may go to the State, the Federal Government, but you guys get money back from those places. I reserve the right to be wrong but I don't think you're going to get swamped with these projects and all of a sudden there's not going to be any agricultural land and the farmers are not going to have a place to farm. I wish there was more farming activity, the reason there is isn't because people are, that these solar energy project type things are going to take away from them. That would be a nice idea to keep the taxes high, but if everybody had that kind of attitude that you're going to go for industrial on this and try to max this out, that attitude makes investors worry.

Mr. Chang: Thank you Mr. Bosshard, Councilmember Bynum.

Mr. Bynum: Your project is not on A & B land?

Mr. Bosshard: No, it's on C & D I think but I would like to, the maps are very imperfect. So you're going to get into, if you make it contingent on how the land is designated you're going to get into arguments because there may be three (3) different soil types there. And you can argue over it because it's a big map and you have to impose it over your place and you could have different opinions about that.

Mr. Bynum: The metes and bounds are not that exact?

Mr. Bosshard: The metes and bounds are there but the soil is very variable in any given place. You're going to have pockets, you'll have pockets of soil within four acres.

Mr. Bynum: So I just want to understand what you said, the assessed value under Ag was \$16,000.00 per acre, and then you said some other numbers: \$400,000.00, \$250,000.00. \$450,000.00 was what it was re-assessed at?

Mr. Bosshard: Correct, industrial was \$1.7 million, and prior to that it would have been four times \$16,000.00.

Mr. Bynum: And then during the appeals, the department argued for \$250,000.00?

Mr. Bosshard: They brought it down to \$1 million because I appealed and that was what they presented to the appeals board, that's for four acres, so that would be \$250,000.00 per acre.

Mr. Bynum: May I, I don't mean to interrupt but, so it was assessed at \$400,000.00 when you received it, and when you filed an appeal they came in and said \$1 million, or \$250,000.00 per acre? And then the result of your appeal was the appeals board said \$200,000.00?

Mr. Bosshard: No, they said \$800,000.00.

Mr. Bynum: No, \$200,000.00 per acre.

Mr. Bosshard: That's right.

Mr. Bynum: So it went from \$64,000.00, valued at \$64,000.00 as Ag to \$800,000.00 as industrial after appeal?

Mr. Bosshard: \$800,000.00 total, \$200,000.00 per acre yes.

Mr. Bynum: Okay.

Mr. Bosshard: And that's with using comps from the tax office, you want to know what the number one comp is? It will tie it all together; Transaction from A & B to KIUC next to their power plant of a small property that I assume was necessary for KIUC's oil burning facility from three or four years ago. That's the comparable that I was dealing with and that just brings the picture right into focus of where the tax office wants to go with this.

Mr. Bynum: Thank you.

Mr. Chang: Any further questions? Go ahead Councilmember Yukimura.

Ms. Yukimura: So that meant that your taxes in raw value or in dollar figures taxes went from what to what?

Mr. Bosshard: I don't know, I don't have that number in front of me.

Ms. Yukimura: But under the proposal it would go to about \$3,400.00?

Mr. Bosshard: I don't know the (inaudible) submitted a proposal.

Ms. Yukimura: Pardon me?

Mr. Bosshard: I don't believe I've submitted a proposal that would, my proposal was leave it at the \$16,000.00.

Ms. Yukimura: Your proposal was what?

Mr. Bosshard: Leave it at the same rate that it was.

Ms. Yukimura: Yes I know, it just would help us understand the magnitude of the...

Mr. Bosshard: You're not losing anything, there's no magnitude.

Ms. Yukimura: Yes of course if you assume that it stays at Ag right?

Mr. Bosshard: Well, what it would be otherwise is a gentleman's estate, there would be a CPR house on there. And maybe you'd make money if that's what you want is to have an ag-condo house then you could make money.

Ms. Yukimura: No no no. We're just trying to figure out how to do a fair assessment by use and so that's what I'm trying to figure out. Okay, thank you.

Mr. Chang: Any further questions?

Ms. Yukimura: Wait one more question please.

Mr. Chang: Go ahead please.

Ms. Yukimura: You say no use of County services but there is a possibility that the lease of fire might be needed at some point right?

Mr. Bosshard: A fire?

Ms. Yukimura: Yes. I mean there's, we just had a terrible fire.

Mr. Bosshard: We've had fires down there on at least two occasions since I've been farming down there.

Ms. Yukimura: You have had fires?

Mr. Bosshard: We have fires. We have fires. Whether there's a solar facility isn't going to lead to the fire, it's kids pulehuing up at Kapa'a Middle School started a fire and it burned through there, and the Fire Department came.

Ms. Yukimura: Yes that is the inherent nature of property right? So there's possibility of needing Police and Fire services for that property, it's not totally devoid of any potential County, and plus a road right? The maintenance of the road, Olohena Road?

Mr. Bosshard: That existed the day before I started over there and it exists now. There's nothing additional. Actually let me say this, I'm maintaining the area in such a better way by shredding so that I don't have fire damage, that I'm minimizing what the opportunity would be for a response. There was a fire there in September 2010 and the Fire Department responded and that was about a month before I started construction. Since that time there has not been a fire.

Ms. Yukimura: Okay so I understand what you're saying. You're saying there's no additional services over and above if that land had stayed in agriculture?

Mr. Bosshard: Well you could argue that actually agriculture would have had more impact, traditional agriculture would have had more impact to the County than what I'm doing. You do have to bring in equipment to plow the fields and if it's intensive agriculture you would have more workers there and that type of thing. The facility that I have basically starts up in the morning on its own and it shuts down at night.

Ms. Yukimura:  
thank you.

Okay, so no more and maybe less? Okay,

Mr. Chang:  
Bynum.

Any other members? Councilmember

Mr. Bynum:

If there's no one else.

Mr. Chang:

Go ahead please.

Mr. Bynum: I just want to say in fairness, I'm asking questions, we haven't heard from the tax folks yet. One of the things I'm confused about is we haven't passed this bill, but you got re-assessed, you got re-assessed as industrial, without the bill?

Mr. Bosshard: Yes. The trigger point for the tax office was the fact that I had to go to the Planning Department to get a permit that they're calling a use permit. Now the irony of that is, my understanding was and I have a use permit at my office, that it would use a (inaudible) type of property as comparables. So if the use was minimal that they would tax it at a reduced level as industrial such as unimproved industrial or something like that. However, as I mentioned, the comparable that was used was a transaction several years ago at the peak of the market from Alexander and Baldwin to KIUC next to their power plant. Kind of a, I would say, unreasonable comparable because obviously KIUC would have to buy that land from A & B if they needed extra land around their place. So it's kind of a captive purchase, A & B got a very high amount of money for that.

Mr. Bynum:

Okay, thank you.

Mr. Rapozo:

I'm a non-committee member.

Mr. Chang:

Go ahead please, Councilmember Rapozo.

Mr. Rapozo:  
you have pursued down this road?

If you knew then what you know now, would

Mr. Bosshard:

Yes.

Mr. Rapozo:

You still would've?

Mr. Bosshard:

I would've.

Mr. Rapozo:

Why?

Mr. Bosshard: I'll, win or lose we lose now. Whatever comes of it it's fine, I'm giving my personal opinion. You take what I say with a grain of salt. I was under the impression that the County was promoting this types of projects. I do find it a little ironic that there's some kick back on this especially from the tax office because the Administration has otherwise been so supportive and helpful. I'm glad that I actually went through this process because I'm able to bring you this specific example of how this has been twisted by the tax office. I want to bring up the other point that there's a twenty percent (20%) cushion that the tax office has to be wrong. In other words you lose your appeal, if you don't prove them that the tax assessed you at twenty percent (20%) over market value, I think that's very unfair also. I will explain to you why there are a few appeals, because even though the assessment is supposed to be at fair market value they can be twenty percent (20%) off and you lose your appeal if you can't prove that. So all of this I think is, this discussion is helpful for the public to determine the merits of these projects and whether they want them or not. I do believe that the only reason a person would invest in something like this is if they felt all of the governing bodies were very supportive or really committed to the idea that we really do need this kind of thing. But me, no I'm not going to Monday morning quarterback, whatever you guys do I'll pay the tax, I'll appeal every year, and then maybe someday I'll be back again and I'll have to give you the data again and show you I think I got taken advantage of here by this process.

Mr. Rapozo: I guess my bigger concern that I have is, do you believe this process should it go forward, do you think it will deter future projects? I'll be honest with you, I don't want to see any of these projects on A & B land, you know it's not Alexander and Baldwin, it's A & B – class A, class B soils. I don't want to see this on that land. I really think that Chapter 205 is there to preserve and protect ag for ag, so I want to make that clear. But as you heard farmer Jerry say – C, D, it's really marginal lands for ag. Until our IAL studies are done, we got to deal with it. So I don't have a problem but my concern is that if it's so cost prohibitive in fact, some people cannot get financing then all the photo ops this County took advantage of, of how we support solar and then now we come back and say okay now you pay us? I have a problem with that as well. But I want to be as fair as possible and that number you gave us, \$16,000.00 to \$200,000.00 per acre, that's a substantial increase. That's substantial.

Mr. Bosshard: It's not as bad as \$400,000.00 an acre, that's what they started with.

Mr. Rapozo: Right, right.

Mr. Bosshard: Now I have to put my time in, I'm here, I think the advantage I have is I don't have a corporation, I don't have to hire people underneath me to represent me here. I'm local, I have a low overhead compared to a

corporation that has to put something like this together. I respect everybody's opinion who's here, when I don't agree I point it out. The A and B land thing, the only thing I'd say is that you might just have one speck on the corner of a property that could kill a deal. This isn't to help me in the future I'm just trying to get (inaudible) for other people's projects, because I'm not competing with anybody or looking at doing any more. I'm just adding to the debate. That kind of uncertainty that you end up with a lawyer suing you saying this project shouldn't have been approved because there was a speck of B land over in one little corner of the property, I'd be worried about that. That just, any of that uncertainty really would hurt.

Mr. Rapozo: I guess that's something we're going to have to clear up. We'll let our legal department deal with that but I think the premise was we don't want to set up a system where we're going to encourage people to move into ag lands and take away ag lands from real farmers. I think that is my concern and I agree that no matter what parcel you pick, you're going to have A, B, C, D, E lands somewhere on that property even at four acres.

Mr. Bosshard: My worry is I would get tied into what the hydro would be or the bio-fuels because you're dealing with thousands of acres of agricultural land and sensitive areas mauka. If somehow you could, I mean this has been pending for I think Mr. Bynum said this bill has been thought of or worked on or whatever for a year. Time passes quickly and I'm hoping the solar aspects of it will get passed out even if you get hung up on bio-fuels which is a much bigger issue and more complex.

Mr. Rapozo: Okay thank you very much.

Mr. Chang: Any further questions? You know I guess I have a question, Councilmember Rapozo had asked if you had any regrets and what I wrote down that you had said – you have the right to be wrong, I guess if I heard you correctly. Was it about this time last year October that you had the place broken ground or blessed or what have you?

Mr. Bosshard: That is correct.

Mr. Chang: And that you started to, it was complete and you started to generate power in March?

Mr. Bosshard: Yes we were complete by, actually I would say September is when we actually started but I would say that we finished by December 31, but I had to wait for PUC approval which is another one of those risks that you take about how that goes. But you can't sell power until you get PUC approval and so I wasn't able to sell for the first couple of months.



Mr. Chang: So wasn't it an incentive that you got, you fast tracked the project by the end of the year to get State or Federal rebates?

Mr. Bosshard: There was about three different fronts that I can answer that. The first, it vested me so if there had been any changes, I would've been secured with the Federal and State grants so if I went into the next year and the amount that they wanted to contribute changed, I would've already vested my rights and I would be assured to get those money. It also expedites by a year of what you're getting back from the Federal and State contributions. Because of the tax year situation I would've had to wait another year to get, I'd have to file my tax return at the year that I finished so you have to wait until April 15 basically of the following year. The third thing was it has to do with my personal tax return and depreciation of the system. The depreciation of the system and that worked out for me better to have it done in 2010 than 2011 so it was personal to me a need to have it done that year for tax reasons. Which gets to the point of auditing people's books to try and figure out what they're making. It's going to be different for everybody because it all has to do with what their investment portfolio and you can't say how much one group is going to make versus what I'm going to make. It's silly and what I wanted to say was if I lose money are you going to give me my real property tax back? When does that happen? I won't know until fifteen, twenty years from now.

Mr. Chang: Well you and I had a conversation and the reason why I have asked a lot of these questions is I believe some of the Councilmembers may have been able to make it to the blessing. I think if I'm not mistaken the Mayor made it. But I explained to you as I had another conference then at the Coconut Beach Hotel and I spoke to people that went to your blessing from Honolulu and Maui in particular and they were praising the County and Kaua'i like how were you able to work together and partner and pull this off in a short time. We would never be able to do this on O'ahu, we would never be able to get this done on Maui. At that point it was a win-win situation that I thought that we had. So I guess I need to ask as you were going through the process of what you were planning to do, did you have discussion with the Administration or the tax office? When did you, was it not clear as the process was going on that there might be red flags down the road?

Mr. Bosshard: I had no red flags. I emailed in February and asked Mr. Hunt to be involved in whatever discussions were had about the issue and to be included in it. At this point it's a "he said," "she said," type of thing. The bottom line is he met with all the big landowners and never let me know there were any meetings or that I would be invited to those to have input.

Mr. Chang: But that was February 2011 or February 2010?

Mr. Bosshard: Eleven.

Mr. Chang: Okay.

Mr. Bosshard: When I built the thing I didn't have this at the top of my radar although it was, as soon as I got done I did make contact with the tax office. He and I are obviously not going to agree. At this point in time obviously the lines are drawn and I'm willing to go with my side of things here. I think the proof is in the pudding. It's set up for the big landowners, it gives A & B a fifty percent (50%) discount off their real property taxes next to the power plant there. I don't have any problem with them being treated the same as me but their taxes are coming down half, mine are going up whatever percentage that is and it's not pretty. Which is, I understand that is the way the game is played, and I play hard just like Mr. Furfaro, an old football player.

Chair Furfaro: Well I used to play third-base and then when I got older they transferred me to first and you go to the third-base position right?

Mr. Bosshard: You were much better at both positions, but you could only play one which is the thing.

Chair Furfaro: That was thirty years ago right?

Mr. Bosshard: Thirty-five almost.

Mr. Chang: Okay, any further questions for Mr. Bosshard? I think we've...

Chair Furfaro: I have.

Mr. Chang: Go ahead Chair.

Chair Furfaro: As a non-committee member, I just want, Kurt obviously you did a proforma for your financing for this package and I think you may have heard my comment earlier when I was dealing with questions related to D & E graded lands. Was your proforma, did you do your proforma based on the fact that I would think that coming out of the shute for us we would at least want to be doing something that was revenue neutral. So was your proforma done based on the fact that you made an assumption that your lands would be ag tax rate?

Mr. Bosshard: I did not. I didn't include that as part of my calculation and that's why I'm saying that I would still consider this a project a

success without regard to what you do. I will slug it out with the tax office for the rest of my life.

Chair Furfaro: Well I know you're quite capable of that because I thought one of the comments you made was one of our old baseball themes: win or lose we booze, is that what you said?

Mr. Bosshard: Booze.

Chair Furfaro: So that's how we have to do it in the dugout I understand.

Mr. Bosshard: I'm drinking water now but I play just as hard.

Chair Furfaro: Okay, but your proforma, getting to your proforma, your original capital investment you obviously had a line item that dealt with your tax exposure and you did not submit to your financial group something that equated to taxes will remain the same?

Mr. Bosshard: To be honest I am my financial group so I did it all in my own way which wouldn't have been the same.

Chair Furfaro: Okay, thank you.

Mr. Chang: Vice Chair Yukimura.

Ms. Yukimura: You know your thought that this bill will be for the large land owners, it doesn't say if you're a large land owner you get a tax break. It basically says whoever does solar gets a tax break. Those who choose industrial land, if they're buying initially I don't know if they're getting a tax break, I mean if they buy to do the project.

Mr. Bosshard: Nobody will buy; the land would cost too much. I couldn't do this project paying a million dollars for a piece of property. It wouldn't even make the proforma, there wouldn't be a proforma. It would blow up. The project, it's not going to happen. Alexander and Baldwin isn't using that property or can't sell it and it is a business enterprise, it makes sense for them to do this solar which is great for the island. That's the only solar project I believe that's going to be on industrial land, not because of the tax rate but because there's so little industrial land that it carries this ridiculous premium. Otherwise my assessment would not have been \$1.7 million.

Ms. Yukimura: So that means that either we're not addressing the need, I mean it's so ironic we're supposed to be providing lands in the categories we need through our zoning process or it means that there is an inherent preference for ag land just based on the circumstances that industrial land is too expensive.

Mr. Chang: Hold on for one fast second. Do you have a specific question you want to ask him because I'd like to call the Administration to do their, because there might be some questions that will be stimulated from their presentation and the appearance of our tax office. Thank you very much Mr. Bosshard. Mr. Taylor please.

KEN TAYLOR: Chair, members of the Council my name is Ken Taylor. As I said at the last meeting on this item is, I don't think that you should be changing the tax structure on these ag lands based on solar projects. I have no problem with giving them deductions if they're on D & E class soils. If they want to build on class A soils there should be no deductions period, no deductions. But as the previous speaker said there's not going to be very many projects come down the pipe because the system won't take them. You can only put a certain amount of interruptible energy projects onto our grid system. It's not that high, maybe fifteen, twenty percent, maybe at the most. When you look at the existing project that's there the project that's being considered for the Po'ipū-Kōloa area, A & B's project and the project that KIUC is now talking about, there will be very little room for any additional projects. The other part of this whole equation is that we know that the military base out on the west side will be going off grid probably, well the mandate says 2020 but I've heard them talk that they'd like to be off by 2015. They're the second biggest user on the grid so what are we going to do, why would we need more electricity? These things all have to be calculated into this situation. In my mind there's no reason to be concerned about we're going to gobble up a bunch of ag land. When I hear his ag land was assessed at \$16,000.00 an acre, I'll tell you one thing, there's very few farming operations that could justify buying land at \$16,000.00 an acre. Ten to twelve and sixteen is really pushing it so I think we have to really look at, why can't farmers go out and buy land: because it's too expensive. We're making all these other uses that drive the prices up. I think we all want solar, I think as much as we can possibly put into the grid system but it's just not going to be much. It's not like being on the mainland where you're tied into a grid that feeds the whole western United States and what you don't use you can send out to other areas. I think this whole discussion is really unfortunate and time consuming for nothing. So I just hope that you leave things where they're at and let's move on, thank you.

Mr. Chang: Excuse me, thank you Mr. Taylor, any questions for Mr. Taylor? If not, again thank you so much, Mr. Mickens.

GLENN MICKENS: Thank you Dickie, for the record Glenn Mickens. I wasn't going to testify and I don't have a written testimony, I'm sorry Dickie. I wanted to put my "two-cents" in on this thing. I agree with Kurt and Jody 100% as long as most of us are pushing to get off of fossil fuel. Be it solar, hydro, hydrogen, wind-tied or whatever, we should incentivize those who are willing to invest in these ventures no matter what type of property is being used for these operations. That land should have every tax break available, if that's our purpose. If getting off of fossil fuel is in-fact a top priority over ag or any other use, then give that land every tax break on the book. Prioritization is the key and that's going to be up to you folks or the people to decide. I believe that Jerry has given some very good suggestions regarding the ag lands so I do support some of the things Jerry has talked about. I firmly believe that the users of this newly generated energy must have their rates lowered to people. There is no way we should be paying \$0.42/kWh, the highest in the nation. As PMRF prepares to go off the grid, hotels are finding it more cost effective to co-generate their electricity, those left on the grid will be paying rates that no one can afford. It'll be unbelievable. KIUC has a gigantic problem, they have this huge debt with RUS and when they bought our utility from citizens utility they predicated their rates, never lowered on using the same electricity or more. With the present progression of use this will never happen, alternates and co-generation. So anyway, I think it's a problem. Kurt as he pointed out he's going to push ahead with this anyway because hey he believes it is the right thing to do. But again I think we have to figure out what our priorities are here. I know ag land is a big purpose. But, is solar a bigger purpose or whatever we can do to get off of fossil fuel. I've heard nothing from everybody saying the same thing: let's get off of fossil fuel. Gasoline for us is the highest in the nation, we should be talking about that. Why are we paying these (inaudible) rates for gasoline, it's ridiculous. So anyway, that's my "two-cents" thank you Dickie.

Mr. Chang: Thank you so much Mr. Mickens, any questions for Mr. Mickens? No questions for Mr. Mickens, thank you very much. Any other members of the audience would like to testify on this agenda item? If not, the rules are still suspended, Mr. Costa would you like to do your presentation? Mr. Chair did you have a comment or question?

Chair Furfaro: (inaudible) Mr. Costa from the office of Economic Development. I'd like to know what we can expect in the presentation here from a standpoint of the economic benefit versus the position that is probably related to the tax base. Obviously I think these are two very separate approaches. I think we've heard testimony dealing with the fact that solar provides us alternative energy, but at the same time it provided us with a situation that we can only take on so much because it's not necessarily available to us unless we have storage capacity with it. It's not available to us during peak demand periods. So that will dictate to us from Economic Development how much solar we can actually take versus the question on the revenue side, not only from us trying to stay revenue

neutral for taxes, but also from a standpoint of the purchase power agreements that are with the utility company. As they expand alternative energy is there an opportunity for these people to then be able to negotiate a different return rate on their investment. I just want to know, is the presentation going to cover the tax portion as well as the strategic business thinking?

GEORGE COSTA, DIRECTOR ECONOMIC DEVELOPMENT:

Basically the tax portion. It'll be both myself and Steven Hunt presenting the tax portion.

Chair Furfaro:

Okay.

Mr. Costa: Basically I'm just following up on my original presentation last month on the introduction of the bill.

Chair Furfaro:

Thank you.

Mr. Costa:  
call Steve up.

Then some of the salient point and then I'll

Chair Furfaro:  
you for the clarification.

Okay so we'll hear from the tax office, thank

Mr. Chang: I just wanted to say thank you because I think I understand where you're coming from which is why maybe perhaps I should have had George start off first and then we could have asked the questions. I understood it at that point, so we're going to let him do the presentation, we'll call up Mr. Hunt, I'm sure we can get a lot of clarification and then we'll open up the floor again for any other discussion. Please go ahead Mr. Costa.

Mr. Costa: Aloha Council Chair Furfaro and Councilmembers, George Costa, Director for the Office of Economic Development. I'm here as I mentioned to basically follow-up and provide additional information on the initial bill that was introduced – Bill 2415, which provides, proposes real property tax exemptions for commercial alternative energy facilities.

First of all, currently as was mentioned several times throughout the discussion today, Hawai'i Revised Statutes HRS 205, allows for solar on ag land but we want to emphasize: Does not set the basis for taxing purposes. Also, the County Planning Department deems energy as a utility and as such requires use permits. There also presently is the, through the Public Utilities Commission, public utility companies pay in lieu of property taxes a fee of 1.885 of gross revenues generated. So these are what current utility companies are paying. Also, this proposed bill again we want to emphasize that only the portion of land used for energy

production is classified as industrial and non-production land remains unaffected. Most of us here know the background of this bill, I think this will help some of the viewing audience to help understand what we're discussing here today. The industrial tax rate again is set by the County Council each tax year and land currently in ag dedication and used for the production may be removed without any penalty (inaudible) taxes.

Improvements for the alternative energy production again will be 100% exempt and the land used would be fifty percent (50%) exempt on industrial classification. Now, concerns that will arise and you've heard quite a few of them today: the potential loss of prime ag lands. Again what is fair and equitable tax treatment for all alternative energy projects regardless of the zoning? Also, right now and you've heard bits and pieces of it, the limited information regarding the project's proprietary and confidential agreements. I know I've heard Mr. Bosshard's concern about, and also concerns from Jody about providing this information and what is that information going to be used for. I know in our discussions with Steven Hunt and the Real Property Tax Office, it's hard to determine that if you don't have, not maybe all of the financial information but the pertinent types of information you need to draw fair conclusions. Again, we heard the term subsidy being used so will this be fair to all taxpayers? That's just my introduction at this point. I'd like to call Steven up to provide background on some of the research he did with other municipalities on comparing what the Kaua'i County is proposing as opposed to what is currently being used in other municipalities. Then we have several examples of scenarios in taking these examples and seeing what the tax benefit is and hopefully we'll provide more answers than questions. So if I could just call Steve up.

STEVEN HUNT, REAL PROPERTY OFFICER, REAL PROPERTY ASSESSMENT DIVISION:

For the record Steve Hunt, Real Property Assessment, I'm the Real Property Officer. In looking at a fair and equitable tax plan for alternative energies, we really wanted to start first with seeing what other Hawai'i Counties were doing. Honolulu recently passed in 2009 new legislation dealing with commercial alternative energy. In that past, and we have also, Kaua'i and other counties have residential type treatment for exempting out solar water heaters, personally used voltaic systems, things of that nature. On a commercial basis we never had that concern and I think at the time there was a limitation that you could not sell more than twenty-five percent (25%) of your energy produced back to the grid, back to the utility. Honolulu came out with a plan in 2009 that dealt specifically with the improvements. The improvements were given 100% exemption for a period of twenty-five years, but the land treatment was not exempt from taxation. As I confirmed with both Keith Yamashita who is a Property Technical Officer for City and County of Honolulu, as well as Steve Takara who is also with the PTO Department, they do treat the land as industrial when it's a large scale project and use permits are required. They have one wind farm that is being



assessed that way at the moment and I believe there have been recently come on some solar projects. The Big Island currently assesses land as zoned, but they have no exemption on the improvements. The improvements are assessed at 100% value, the same is true for Maui. Maui assesses 100% of the improvements, they are in a tax court appeal on wind and the towers that support the wind generation as being personal property or equipment, but that has not been resolved.

Going outside of Hawai'i, I recently returned from the International Assessors Conference in Phoenix and had the pleasure of speaking with a gentleman that was the head of the Public Utilities for Tennessee for their assessments. He says they do tax both real property and personal property in Tennessee and that the alternative energies including solar are taxed at their market value with no exemptions.

California at the State level, the improvements are exempt, at the County level the land is assessed at market value and is typically, although it's County to County based, typically is assessed as either industrial or utility. It's not by zoning. In cases where grazing land have been converted, it is re-assessed as either industrial or utility.

In Clarke County, Nevada, they assess the same as a private utility on land, and improvements are based on the lease rents and comparable sales. It's hard to derive, it's a different market what those land rents would be and what the value of those improvements are and whether there are sales of an alternative energy facility. It's hard to compare that to Kaua'i but that is their policy.

In Falmouth, Massachusetts, land and improvements are assessed using the income approach to value and they are assessed at 100%.

The town of Denis, Massachusetts, I picked some of these locations because I was able to find out that they have operational alternative energy facilities which is sort of the large swath of the U.S. but these are where they actually have built facilities are being taxed. The town of Denis, Massachusetts has an existing bright field solar project and the improvements are exempt but the land is taxed as industrial. This was actually built on a brownfield site that was industrial, it was a dump that was capped. They may be receiving some additional benefits for the brownfield use of lands but it's still being treated as industrial.

Pennsylvania, improvements are exempt, and they use the capitalization approach to value which using their income.

There are projects that are taxed based on the production of megawatts. Ohio, Idaho, South Dakota, Nebraska all have such policy.



I prepared a potential scenario of how a three megawatt plant on a 10 acre piece of 100 acre larger parcel might be assessed to determine how their taxes would be calculated. The 10 acres if you look at it as a portion of a ag lot may have a value of \$20,000.00 an acre depending on its location and a tax in its ag as a portion of a larger piece of about \$1,380.00. Question?

Ms. Yukimura: (Inaudible)

Mr. Hunt: \$200,000.00 for the entire, that would be the assessment for that 10 acre piece. So \$20,000.00 an acre times the 10 acre piece.

As a subdivided ag lot, so no longer a portion of the 100 acres but a 10 acre standalone, it may have a market value of \$650,000.00, like the highest and best use either as development for residential use or depending on where it sits if it didn't come out of the 100 acres. It may have additional density and can be CPR'd further for residential development. That's how we're valuing ag lands at its highest and best use likely would have something in the neighborhood about \$650,000.00 or about \$4,485.00 for that 10 acre piece in annual taxes. As limited in industrial lot it may have a value of \$2.2 million and a tax of about \$15,180.00. Now I say limited industrial because these facilities have use permits that severely limit what they can do on the property. Part of the reason for asking for some of this financial information is to determine how much the use permit is affected relative to an unencumbered benchmark as full industrial. So when we're establishing the amount of discount like we do at the airport, the airport is an ag zoned property that is assessed as industrial and there are limitations. Some of the sites that are leased can only be used for parking, some are hangars, and some are ticketing agents and full blown retail, there's a wide variation as to what you can do on those particular pieces. So in determining what kind of discount we apply to the airport we look at what the use restrictions are and that's what we're trying to establish here in terms of the income and the financials that are involved is how much discount from our unencumbered benchmark should we be giving to these projects? Then under our proposed ordinance, that assessment would go to \$1.1 million and have a corresponding tax of about \$7,590.00.

(?) (Inaudible)

Mr. Hunt: Sure.

(?) (Inaudible)

Mr. Hunt: For the 10 acre parcel that portion, that's correct.

(?) (inaudible)

Mr. Hunt:  
it's not in the slide show, sorry.

Do you have additional? I have additional,

(discussion inaudible)

Mr. Hunt: Thank you Scott. Okay using the, what I believe to be an appropriate development of cost here improvements to build a 3 megawatt facility would likely be about \$4.25 per watt which equates to about \$12,750,000.00 in capital upfront to be invested. Currently I have two scenarios under ag and under industrial. Improvements are assessed at \$4.25 per thousand assessed, industrial at \$7.90 per thousand assessed. So based on that the calculated taxes, annual taxes for the improvements under ag would be \$54,188.00 and under industrial \$100,725.00. We've been talking a lot about land and land assessment, what we're not talking about this is a major give back, it is not cut-and-dry that the improvements are personal property or equipment. We're not going to make that argument, we're willing to acknowledge that it's part of the project and this is the major exemption that we're giving up. So it's 100% exempt, so anywhere from \$54,000.00 to \$100,000.00 that we're essentially subsidizing.

Next one is a comparison, again it's a 10 acre renewable energy facility, a 3 megawatt facility. Under the current ordinance the Kaua'i County would consider this a public utility and at 1.885% of gross revenue with a projected annual revenue of about \$275,000.00 per megawatt, the property taxes would be approximately \$15,551.00. As industrially assessed, we're showing taxes again at \$2.2 million before the exemptions applied and the taxes would roughly be at about \$15,180.00 just on the land use. Then the combined land and building exemptions roughly equates to about \$115,905.00. Under our proposed bill, the Kaua'i industrial land would receive an exemption, that would drop the taxes to \$7,590.00 based on a \$1.1 million net assessable.

Comparing that \$7,590.00 to other jurisdictions, these are ones that actually do have in lieu of assessments by per megawatt or other means. Ohio does it at a range of \$7,000.00-\$9,000.00 per megawatt. It's typically \$7,000.00 but it allows individual counties, because it's at the State level, but it allows individual assessing counties to go as high as \$9,000.00 per megawatt provided that it's over 5 megawatts for the \$9,000.00. But smaller facilities under 5 megawatts are assessed at \$7,000.00.

In Idaho it's 3% of the revenue that is generated as paid as an in lieu of tax, would be roughly \$24,750.00.

South Dakota is a two part system: Part 1 is \$3,000.00 per megawatt; Part 2 is 2% of the gross revenue. That would be roughly \$25,500.00 in taxes.

Nebraska pays a fee that is combined, it's hard to determine what the real property tax component is. Part 1 is \$3,518.00 per megawatt, and part 2 is 100% of the fair market value of the real property exclusive of the personal property. They deem some of the equipment and fixtures to be personal, but some of the foundation, sheds, outbuildings as real property along with the land at real property.

California, the improvements are exempt but land is fully taxable and reassessed annually not as zoned but as use. The Board of Equalization stated that it is a utility or industrial depending on the local jurisdiction.

In conclusion based on the information we feel this proposal is fair and equitable to all taxpayers including the developers. I'll field questions at this time.

Mr. Chang: Thank you Mr. Hunt for the presentation. Any Councilmembers with any questions at this point? I'm sorry Councilmember Yukimura did you have a question?

Ms. Yukimura: Yes, but I can wait, go ahead.

Mr. Chang: Out of curiosity you have this comparison with other jurisdictions and you have Ohio, Idaho, South Dakota, Nebraska, and California. Were there any reasons you picked those states?

Mr. Hunt: No. I looked for states that had policy regarding commercial energy. A lot of them deal with residential use, or ancillary use, these are ones that had policy regarding commercial energy. The ones that were chosen had a per megawatt basis which was easy to calculate what it would be in tax revenue. A lot of them are assessment based and it's hard to say, obviously Hawai'i values are higher than Nebraska values if you're looking at the value of the land. But the value of the improvements would likely be close to the same, our labor may cost a little higher here, and shipping costs and other things. As far as the land values there may be a significant difference in value so I tried to find ones that were basically in lieu of fees saying it's based on production and you pay "x" number of dollars per megawatt, as an in lieu of property tax fee.

Mr. Chang: I was just curious because you have Ohio, Idaho, South Dakota, Nebraska, and California, I mean what would happen if it was Florida, New York, Illinois, Alaska, and Colorado?

Mr. Hunt: I did not, or could not find anything that dealt with them commercially. Because it's such a new industry, a lot of them have not set policies to be honest.

Mr. Chang:  
Chair Yukimura.

Okay and I understand, thank you. Vice

Ms. Yukimura: Whatever we compare with I guess you would say nobody has as urgent an energy need as we do because they're not as isolated as we are. They can wheel in, I think that's the proper term right, wheel in energy from thousands of miles away whereas we don't have that option. So to a certain extent we have a greater urgency or priority wouldn't we? And I'm not saying we shouldn't look at those comparables, but just kind of weight it a little bit.

Mr. Hunt: No, and again the taxes we're comparing to that we are so much lower and I want to be the lowest. That's the point I'm really driving home. It's a major exemption because some do tax the improvements, we're saying not going to tax the improvements. How do we fairly assess the land? That becomes an issue not only between projects because you have others that generate more megawatts on less land area, and solar seems to be the one particular industry that seems to be more troublesome than other in terms of setting a fair policy. Maybe the discount off the industrial value has to be a little higher for solar projects than it does for biomass or for hydro. That's part of the reason is trying to get information about the financials and economics of the projects, and I'm not asking for individual or corporate tax returns, I'm just asking for proforma stuff to say where does this benchmark, what does it do, how does it produce on a monetary basis, how does it generate revenue?

Ms. Yukimura: Right, we really are breaking new ground in trying to learn how to do this best based on learning about the individual characteristics, and the various parameters of the different types of energy.

Mr. Hunt: It's really hard to have a one size fits all policy, and that's what I'm finding here. To go back to some of the concerns that were raised about some sort of cap level and consistency and equity, I mean if we did go back to just what the public utilities pay, 1.885% those that are generating more megawatts and revenue will be accordingly when there is downturn in either production or increase in production then their revenue and taxes will reflect that.

Ms. Yukimura: Right. So on page 9 or slide 9 you have this potential scenario and you took out this category called limited industrial.

Mr. Hunt: Correct.

Ms. Yukimura: Is this where you would take into account capped income or the power purchase agreement that is capped? Is that correct?

Mr. Hunt: As much as possible I try not to individually value properties because again we're doing it a mass level. There could be differences between two projects in terms of what they negotiated, either on their land lease or on their purchase power agreement. So I'm trying to find out again sort of generically where things are established. I don't know that everyone has the locked 20 years seems to be where the projects are headed and certainly that preserves some certainty on the developer's standpoint is we know what the revenue will be likely for the next 20 years. So it kind of actually takes some of the risk out.

Ms. Yukimura: Yes it does.

Mr. Hunt: But it doesn't allow for inflationary issues or tax increases.

Ms. Yukimura: Or a big drop in oil prices either.

Mr. Hunt: Right.

Ms. Yukimura: My last question is, what are the consequences to say Mr. Bosshard's parcel if this bill goes into effect?

Mr. Hunt: Based on his 4 acre use permit and again just to explain a little bit about the assessment I know Mr. Bosshard came up and was siting a per acre assessment on \$16,000.00 an acre. That is the incremental difference again he's on a 100 acre model and your density from just a normal valuation excluding what we're doing with the utility assessment at this point but just the dynamics of a 100 acre parcel having additional land doesn't always contribute the same amount of value because at some point you're capped as to what your density is based on what you can subdivide and build on ag. If it were rezoned or redistricted then maybe the additional acreage could come into play and there may be additional density but as ag there's a fine number of units that are going to be allowed and whether those units are now going from 2 acre size to 5 acre size, they're still units but it has an increase in density. So his particular situation on his property, that \$16,000.00 reflects just that 4 acres of incremental value not part of the base, the base is still carried by the first 100 acres and that should really be blended into the total project if you're going to look at it on a incremental basis on a per acre basis. It would be a little bit higher but again not as high as we reassessed this as industrial.

Similarly if you took that same 4 acres and created a individual ag lot, that 4 acre lot, I believe our benchmark is 200,000 for an acre with a 25% overage model so it'd roughly be about 350,000 value as a subdivided ag lot that you could build a residence on. The taxes if it stayed in ag as an ag lot would be \$2,415.00 based on

the ag land rate of 690 with that 350,000 assessment. Now to take it to the next step the \$1 million assessment for that 4 acres is really, considers the limited use on that property. Again it's the last sale that was at I believe in the end of 2009, not quite peak market but on the downturn that one equated to a little over \$10.00 per square foot for I believe it was a 2.1 acre site.

Ms. Yukimura: Are you talking about industrial now?

Mr. Hunt: I'm talking about industrial, how we came up with this value. His lot is not being assessed at \$10.00 per square foot, it would be much higher. So this \$1 million assessment is taking into consideration some discounting for the limited use permit. As I'm getting more into understanding the financials of how these solar work, maybe the discount applied was not enough to come up with a value. Regardless the taxes as it sits today with no ordinance in place regarding alternative energy would be \$6,900.00 for that, annually for that 4 acre portion. Under the proposed ordinance assuming that the \$1 million was still the assessment with the 50% exemption that brings it down to a net assessable of \$500,000.00 or an annual tax of \$3,450.00.

Ms. Yukimura: For the total of the 4 acres?

Mr. Hunt: For that 4 acres right. I believe he was paying, if you look at the 16,000 number he proposed I believe that that number somewhere around \$469.00 a year or something like that.

Ms. Yukimura: Okay. So the 2,400 was for 4 acres, at ag it was the 6,900 was if it were industrial present day but under the bill that's being proposed in front of us with a 50% exemption then it would come down to 3,450.

Mr. Hunt: Based on the projected revenue from the 1.2 megawatt facility at the \$0.20 and I don't know what the total terms of his contract are, but roughly equates using the public utility 1.885%, I believe that \$6,220.00 in taxes that would be the in lieu of if we put it under the public utilities.

Ms. Yukimura: Income based public utility.

Mr. Hunt: Income based correct.

Ms. Yukimura: Okay thank you.

Mr. Chang: Thank you Council Vice Chair, any other questions? Councilmember Bynum go ahead please.

Mr. Bynum: So when you say it's 6,900 (inaudible) that's based on the 200,000 assessed value?

Mr. Hunt: Yes. The actual benchmark that was used for this particular one was 400,000 for the first acre and 200,000 for each additional acre. But that equates to, because it's 4 acres it's a million.

Mr. Bynum: (inaudible)

Mr. Hunt: He's taking the assessment and dividing it by the acreage but we have models that put a lot of weight in the first increment, and then as you get larger you start declining.

Mr. Bynum: I'm not done but I need to think, anybody else have questions?

Mr. Chang: It's funny because you were ready when your mic was off and when your mic was on you weren't. We're going to slide over to Councilmember Rapozo, and then you'll probably recall your questions, go ahead.

Mr. Rapozo: Steve, the comparisons that you used – Ohio, Idaho, I'm assuming those are municipalities within those states?

Mr. Hunt: Those were State ordinances, and then the municipalities are the ones that are giving the "in lieu" of, so some of them are dictated at the State level.

Mr. Rapozo: Okay.

Mr. Hunt: Which is similar to California, they basically say regardless of what county you're in that the improvements are exempt, you're not allowed to tax the improvements at the County level but you can treat your land how you want to treat your land at the County level.

Mr. Rapozo: I guess the comparisons I'm looking for are municipalities that like ours control the real property tax then we're comparing apples to apples and that is what I'm interested in. If you have those, if you could provide them if not I guess we can check with WIR and they can help us find some comps in the area of municipalities that actually control their general excise, I mean property taxes. That's really all I have thank you.

Mr. Bynum: I'll try again.

Mr. Chang: Go ahead.

Mr. Bynum: You know what year O'ahu passed their bill?

Mr. Hunt: 2009.

Mr. Bynum: So couple years ago.

Mr. Hunt: Yes.

Mr. Bynum: We've had this discussion before, I was interested in this bill right after they passed theirs because I wanted it to be proactive.

Mr. Hunt: Correct.

Mr. Bynum: So we would set the policy and developers could say okay I got the policy and they can do their proforma. Unfortunately that didn't happen and now we're filtering this proposal through the eyes of the existing and proposed projects which has complicated the discussion. Would you agree with that?

Mr. Hunt: Yes.

Mr. Bynum: So because, and I'm just going to talk bluntly I mean what I'm hearing in the community is – hey A & B meaning Alexander & Baldwin was moving ahead with this project and then all of a sudden this proposal comes out and they're going to benefit 50%. So the perception is this was a proposal for that landowner, do you want to comment about that?

Mr. Hunt: Well first that's not the case. Secondly the intent was to, knowing that the existing solar facility in Kapa'a had been built and not having policy to deal with it right now we treat it the same. You get a use permit, your value is based on the use permit. When you do it you pull a use permit in your residence and you want to build an office for... you can have a commercial real estate office in your garage or something, you can get a use permit to do it; it's allowed to do; that portion is assessed based on commercial. We're doing that now. So in dealing with the ramifications of the appeal I just went, through we wanted to have a policy knowing that we were going to be raising the ag properties that are getting these use permits; we didn't want to have an uneven playing field saying – well this is full industrial with all the rights and benefits but they're going to use it for something maybe less or generates less. At the same time we have these other ones that we've now brought up and we just wanted to make a level playing field so that we didn't have a tax policy that was dictating Planning policy. That we were actually forcing developers to look for ag sites because the taxes were cheaper.



Mr. Bynum: And I appreciate that answer because earlier testimony people said this was the (inaudible) you know kind of like accusations, I want to give you an opportunity to respond to... Here's where I'm confused when I read the O'ahu bill, it doesn't say anything about zoning or assessing at industrial.

Mr. Hunt: That's right.

Mr. Bynum: But yet I've heard from you that that's what they are doing.

Mr. Hunt: Yes, it's silent it doesn't say they're exempt or do anything with the land and my conversations as early as a few hours ago confirming because at the time I initially asked they had zero solar projects on O'ahu which was over a year ago. Now they have I believe one or two have come up and are applying for the exemption or have applied for the exemption and they did have a wind facility that had already gone through this. The big difference that they've made in terms of qualifying whether it's a commercial use or a residential or a sustenance use has become the dictating policy internally is how they treat those. When it's a larger scale production, and this is coming direct from Keith Yamashita and from Steve Takara today, when it is a larger scale facility they do reassess based on the use permit as industrial. They're considered a public utility and they reassess as industrial.

Mr. Bynum: And they do that even though the exemption law doesn't...

Mr. Hunt: Exemptions of the improvements are exempt, it's silent on the land. So once the use permit is pulled they treat it how they treat all the other use permits and that would be the other concern I guess from a uniformity standpoint. If we ignore use permits for this one particular group of properties how effective can we enforce use permits on the rest of our assessments?

Mr. Bynum: So in your mind then our bill is a bigger incentive than O'ahu because we're doing the same thing in essence but assessing it, giving it a 50% reduction?

Mr. Hunt: Correct.

Mr. Bynum: So you would see that as superior in terms of an incentive?

Mr. Hunt: I do.

Mr. Bynum: Okay. I still am trying to get that clarity from other sources even though I trust you. But that raises the question of why...

Mr. Hunt: Wally just recommended that I remind you that they do have a policy on Maui and the Big Island and the policy has been a no change policy. They do assess the improvements.

Mr. Bynum: Right, I'm aware of that. I wouldn't be surprised if that there's legislation here to do it. But I fully understand that and so, but it raises the question for me is – why do we need to put that in our bill specifically that we're going to do this when you in essence were doing that already?

Mr. Hunt: Doing?

Mr. Bynum: Assessing the land value based on use permits. In essence I assume Mr. Bosshard's assessment went up because you said – hey it now has an industrial use and so even though it's on ag we don't have a bill yet, our policy, similar to O'ahu, is going to be to assess based on that use.

Mr. Hunt: That is correct. That's why we wanted to be real clear in the bill that it is industrial and we want to just reassert that, because it is. When we do highest and best use analysis, use permits are a part of that equation, as part of what you can do based on what entitlements you've now been given through the use permit process.

Mr. Bynum: In terms of the dollars, in terms of County revenue it's really kind of minor right?

Mr. Hunt: You mean about \$3,400.00 versus \$469.00? I mean it's \$3,000.00 a year annually for this particular project.

Mr. Bynum: Difference?

Mr. Hunt: Yes.

Mr. Bynum: \$3,000.00 a year in the overall County scheme of revenue is not a large amount is what I'm saying.

Mr. Hunt: That's correct.

Mr. Bynum: So if we wanted to even further incentivize this and say – you know what you're on C, D, & E ag, you keep your ag basis, the revenue loss wouldn't be that great.

Mr. Hunt: For this particular project, but if we're giving exemptions to those that are on industrial like A & B then there is that loss in revenue on that particular piece. And then we also have the issue of the level playing field on how do we, they're doing the same probably the same production in terms of price per megawatt that they're charging and all that but their land cost are higher than someone else who we're giving preferential treatment to.

Mr. Bynum: We're changing the playing field because we're saying if this is for alternative energy, you're not going to be taxing (inaudible). We all agree that's the huge savings.

Mr. Hunt: That's the huge savings, right there. We're not taxing (inaudible) dealing with the land issue now at this point.

Mr. Bynum: Right, but if I built a clothes pin factory I would pay those.

Mr. Hunt: Right, but even in the case of the Kapa'a Solar when that 4 acre site, which may be a part of a 7 acre site on their planned development when that actually gets subdivided, it's different than when it's 4 acres out of a 160 acres, it's now 7 acres as it stands along with 4 acres being used as utility. Like I say that may have a 350, 400, 500,000 value as a standalone (inaudible) at some point. Again depending on the market and what's going on in there.

Mr. Bynum: Well whether it had density or not would impact the value as well right?

Mr. Hunt: Right.

Mr. Bynum: So if you had a 100 acre parcel at a certain amount of density and carve out 4 acres for alternative, that 100 acres still keeps that density?

Mr. Hunt: Right, but in this particular place there is a master subdivision plan that exists within there and it happens to fall into one of their subdivided lots. So his \$16,000.00 an acre assessment, incremental now, may change when that becomes a lot if and when that becomes a future lot. Maybe even a CPR within that lot, I mean there's all these variables that may have different assessment ramifications.

Mr. Bynum: So I mentioned earlier that the initial draft that I saw on this bill didn't have this provision.

Mr. Hunt: The 50%?

Mr. Bynum: 50% or industrial. What was the reason for that change?

Mr. Hunt: I don't think we've changed any position on industrial; what draft did you see that didn't have industrial on there?

Mr. Bynum: It didn't say the land is going to be as industrial, it just said the improvements are going to be exempt. I think the original draft.

Mr. Hunt: Not that I recall, I think it's always been industrial.

Mr. Bynum: Okay I could be wrong, I'd have to go back and look at it.

Mr. Hunt: The 50% exemption became an issue when we were dealing with this – how do we treat those that are going on industrial versus those that are being in ag that are getting a limited industrial. Essentially you're taking a full potential industrial and downgrading it with its actual use, should there be a discount or reward or incentive to do that? So we just wanted again to create a leveled playing field between properties. Now once these facilities, say 25 years from now or 30 years whatever the life expectancy is they remove them and they're off, then they revert back. There's this reversion value that goes back to whatever the underlying property is at that time. But it's while it's in use that we're looking at the actual use of the property.

Mr. Bynum: So it has, to sum up this, it has been our practice to reassess based on use, use permits?

Mr. Hunt: Yes.

Mr. Bynum: That is also O'ahu's practice?

Mr. Hunt: Yes.

Mr. Bynum: Okay thank you.

Mr. Chang: Thank you Councilmember Bynum,  
Councilmember Vice Chair Yukimura.

Ms. Yukimura: You know there's been some thought about capping the assessed industrial assessed value or maybe capping the taxes, I'm not sure, but I'd like to understand the issues that would arise for the real property tax department if a cap were proposed.

Mr. Hunt: Having gone through our permanent home use cap on taxes I can tell you it's a very onerous problem to register and keep track of taxes: when they got in, what their base is, what changes have been made. Some of the problems I could foresee if you're taking a 10 acre portion of a 100 acre piece but the remaining 90 acres is doing its thing and trying to only cap just that portion, the 10 acres at a certain tax amount, it's hard to sort of bifurcate the two and not have it cap the whole property. We've had challenges with that even internally. Also I could see a phased project where maybe the economics change and the values change in industrial where you've got a 10 acre piece but only 5 acres are under use permit employed and 5 acres come on at a later date. Now we've got 2 caps going on within the same project under either one parcel or portions of a parcel, so it could get really complicated in terms of how we implement something like that.

Ms. Yukimura: Do you have an alternative to suggest or maybe you did earlier.

Mr. Hunt: Well again the fallback position could be the in lieu of fee that KIUC pays. They're exempt from their property taxes but they pay an in lieu of fee of 1.885% of revenue. They also pay a 2.5% franchise fee but that's for having the monopoly so this would just be a producer that would be contributing. So I think it would be the 1.885% would provide some certainty on what the tax level would be.

Ms. Yukimura: You had given me an alternative; you said from Mr. Bosshard's property that was \$3,450.00 under the proposed bill, under a PUC 1.855 of percent of revenues. What was that?

Mr. Hunt: I believe...

Ms. Yukimura: And we're talking rough numbers.

Mr. Hunt: Rough numbers, I believe it's roughly about at 1.2 megawatts it's about 330,000 plus or minus in gross revenue. So that would be about \$6,200.00 and change. Maybe \$6,220.00 in taxes. So our bill is better than what the current public utilities would pay.

Ms. Yukimura: And when an energy producer has a cap on the per kilowatt hour payment or price then they're in a hard place if the assessed

value goes up but they're in a, but if the cost of oil goes down well that doesn't affect them does it?

Mr. Hunt: Right. We're somewhat out of control of what they negotiate with KIUC and I hate to say that is part of the problem is we're not involved in that as a County. They're doing a lot of things locking in long term that may be good for us as ratepayers in the future, but are putting some constraints on developers in terms of being able to be flexible on what their payments can be. So if we're looking to break the tie from what potentially could be increases and property values going forward in the industrial sector, then the way to do that is to go back to some sort of in lieu of and base it on production and what they're generating in revenue.

Ms. Yukimura: Okay thank you.

Mr. Chang: Thank you Vice Chair, Councilmember Nakamura go ahead please.

Ms. Nakamura: Thanks for this presentation Steve.

Mr. Hunt: You're welcome.

Ms. Nakamura: I'm looking at page 11, the comparison, because I don't understand the in lieu, the 1.885% of gross revenue. So that is what every public utility currently pays?

Mr. Hunt: That is correct.

Ms. Nakamura: And the funds go to where?

Mr. Hunt: To the Finance Department.

Ms. Nakamura: Okay.

WALLY REZENTES, JR., DIRECTOR OF FINANCE: The public service company tax.

Mr. Chang: Mr. Rezentes just for the record, thank you.

Mr. Rezentes, Jr.: I'm sorry, Wally Rezentes, Jr. Director of Finance. I just wanted to clarify. I think we talked about two different taxes that come to the County. The public service company tax of 1.885% is taxes that the utilities pay in lieu of real property taxes. So the County's General Fund is the recipient of the public service company taxes. The utilities also pay a franchise tax

that equates to 2.5% of gross and that funds go into the Highway Fund of the County for highway improvements, lighting, etc. Those are the two sources that currently the utilities pay into the County.

Ms. Nakamura: Are you saying, so that's the first tax and all of the providers of solar energy would currently pay these two taxes?

Mr. Rezentes: No they won't. The utilities pay them, the utilities like KIUC, HawaiianTel on their gross income.

Ms. Nakamura: Okay but not an individual.

Mr. Rezentes: Not an individual entity provider.

Ms. Nakamura: Okay, so your suggestion, Steve, is that that might be another, if you don't go with the real property route then this public utility route is a possibility.

Mr. Rezentes: You know the 1.885% is supposed to be the equality to try to get to equality with real property taxes. It's been set a long time ago by State statute. So one possible scenario is using that same percentage of gross as a means. You could even consider either/or versus a cap.

Ms. Nakamura: Okay thanks for clarifying that point.

Mr. Chang: Mr. Rezentes hold on there might be additional questions for you from other committee members.

Ms. Nakamura: Are you aware of, because KIUC has been negotiating the 20 year contracts is that the way it's set up in Honolulu too? Do you know if there are..

Mr. Hunt: Whether HECO is doing that?

Ms. Nakamura: Yes.

Mr. Hunt: I don't know what they're...

Ms. Nakamura: So the question is are they facing the same kind of constraints that our producers are?

Mr. Hunt: From what I understand from Jerry Ornellas's testimony they sort of set it up on grids on their sectors and they're only

allowed to take up to 15% load on each particular segment. So that's really the first that I've heard of that I don't know how they administer who is allowed to apply and get these facilities operational or what they pay in terms of their purchase power agreements. That typically is all confidential information so again challenging for us to kind of determine how to sort of box these in in terms of fairness.

Ms. Nakamura: Because I think that's, because we know that's the deal on Kaua'i that that is a constraint on future revenues on each of the producers of the renewable energy that that's something that I'm trying to take into account. But the other question that I had has to do with, do we know what our firm or what percentage KIUC, what the limit is of renewable energy sources into the grid? Do we have any idea? As we do our planning I think it's important to understand what that limit is and well Kurt has his hand up.

Mr. Hunt: He may have some information.

Ms. Nakamura: So that's one of my questions because I'd like to know what the, what is that percentage and with the projects that we have online now then that are being proposed, are we approaching that limit or is it...I want to know how much reach this bill is going to have. How many projects will it affect? Or are we at our limit? I think that will also give me better information. I also have a question about other renewable sources, for example biodiesel, if there's going to be trees planted, acres and acres of trees that then are processed in a facility then what are we when we talk about the land, are we basing the industrial use on both the facility, the processing facility and the land that the trees are being grown on?

Mr. Hunt: Right. For like a biomass facility those trees would be considered their stock for generating the electricity but it's actually the plant that generates the electricity. So again the use permit area may be a 5 acre site, 4 acre site whatever they're building their facility to process on. But it may be 1,000 acres of planted trees. The trees would still continue to get ag treatment but the facility that they're actually generating the electricity would be then considered industrial. Similar to the mills this is how the plantation era of the cane was ag, but the mills where they processed were industrial.

Ms. Nakamura: Okay, but a solar farm photovoltaic panel, or the panels themselves would be all part of the industrial zone, so it would be a larger land mass?

Mr. Hunt: In solar in particular seems to be a larger footprint for what they generate in megawatt. You can generate more megawatts from a smaller footprint in biomass that's the facility.



Ms. Nakamura: Do you see any disparity, or fairness issues?

Mr. Hunt: Well that again, that's why I'm trying to learn more. Again it's a evolving industry, there's not a lot of data out there but I'm trying to learn more about the economics and when we look at our limited use values that we're making in the appropriate discounts from our benchmark. Maybe a solar facility gets a 60-70%, and a biomass gets a 30% or 40%. We'd be having different levels of discounting to accomplish that use permit value.

Ms. Nakamura: So there may be future amendments as we learn more about how these facilities are operated.

Mr. Hunt: It's a really complex way of determining value and I wish there were better means. Just capping the lease rent is not always the fairest because some are more informed than others in terms of the landlords and what they can charge. Some do research on the industry and some say well I can lease it to a farmer for \$500.00 an acre but solar will pay me \$1,000.00 an acre. Some are saying well I can pay as much as \$5,000.00 or \$7,000.00 an acre to do solar and so there's this disparity amongst the leases too. And also what you're potentially capping is just the lease and not the land residual so it's really a leasehold value as opposed to a fee simple value which by ordinance we're supposed to come up with a fee simple value for that. So again it's a complex issue and having some sort of a means to come up with a land residual at least gives me a benchmark as to what kind of discounts will need to be involved from our industrial benchmarks.

Ms. Nakamura: And I just appreciate seeing the comparisons from other Counties in Hawai'i and other states, that was helpful to see. Thank you.

Mr. Chang: Thank you Councilmember Nakamura, and Steve for the record I wasn't writing it down but Councilmember Nakamura asked you specifically for two questions to get back to her. Would you be able to repeat those questions that she had asked?

Mr. Hunt: I did not write them down either, I believe it had to do with KIUC's maximum amount of energy that they would take from alternative energy sources. I don't know if it was specific to any one source but in general. Then the firm rate was what you were concerned about, how much firm and how much alternative and what rate structures were being proposed? It's not my area of expertise but I'll try and find out.

Mr. Chang: I understand that and that's great because when you get the questions back if we can get that returned back in writing.

Mr. Hunt:

Mr. Bosshard might have that answer too.

Mr. Chang:

I understand that, but my answer might not be so I just want to make sure that we got right from the source that the question was asked. Any further questions for... You know what I'd like to continue the meeting, Councilmember Kuali'i go ahead please.

Mr. Kuali'i:

Thank you for being here. Just a quick question following up to what Councilmember Nakamura was asking you about. In many ways basing the taxes on income per megawatt or having this in lieu type of thing, again based on megawatt if you did it that way then it would be about the energy produced and not by what means it was produced.

Mr. Hunt:

Correct.

Mr. Kuali'i:

It would in a way be more consistent, the energy developer's projects could know for certain going forward that it would be sort of like how KIUC has that fixed \$0.20 for 20 years they would know if you came up with some percentage that the percentage of whatever they make however they do it. I mean their profitability will depend on all the other factors that we don't have control over anyway, how cheaply they get the land, how good their technology is, and how efficient. But from our side it could be fairly simple if you just did, based it on the income per megawatt or on some kind of in lieu fee.

Mr. Hunt:  
God forbid...

It certainly takes a lot of the risk out of it.

Mr. Kuali'i:

But it would simplify our system.

Mr. Hunt:

It would simplify it and god forbid there'd be another hurricane and there were no revenue produced then they would be exempt from taxes that year.

Mr. Kuali'i:

Thank you.

Mr. Chang:

Thank you Councilmember Kuali'i. I understand that Vice Chair you had a question?

Ms. Yukimura:

Yes and it actually follows up with Councilmember Kuali'i and Councilmember Nakamura. If we were to use the in lieu route which is the PUC, public service company tax, would we use the same percentage or would there be a problem with changing the percentage? The 1.885%.

Mr. Hunt: That's totally within your discretion, we're using that in lieu of right now for the ones that are participating but if we call these a different type of public utility, an alternative or renewable I suppose we could calculate it differently.

Ms. Yukimura: But that could set also the precedent for any other alternative energy projects or it would in fact.

Mr. Hunt: It could and would and the other concern is do we really want to treat a cooperative that we own differently than a privately owned that's participating with us?

Ms. Yukimura: Right. Okay and it would move the real property tax system more toward this fee system then? It would take it out of this process of assessing property.

Mr. Hunt: It would absolutely simplify the assessment because they would be exempt 100%, land and building and they would just be paying based on their revenue generated, the in lieu of. That take away the issues of studying discounts on different types of projects and where they're locationally situated and what the values are becomes less cumbersome.

Ms. Yukimura: And verification of income is that a problem?

Mr. Hunt: We're doing it now.

Mr. Rezentes: We could definitely set that policy either in Administration rules or the bill on what form requires CPA statement to that effect. We can work something out I'm sure.

Mr. Hunt: I'm not sure if the utilities are sending 1099's to these or what form they would be using but there's probably some verification of income that's also sent to the IRS that we could use.

Ms. Yukimura: But for any of the other properties everybody is subject to the uncertainty except that they may not be bound by fixed price contracts. Alright, thank you.

Mr. Chang: Thank you Vice Chair, Council Chair.

Chair Furfaro: Hey look we're back to where we were an hour ago, Steve and Wally. In the energy sustainability plan it is suggested that we set up a task force from the County to work with the public owned co-op for the purpose of understanding what might be the right recommendations about types of

alternative and renewable energy, what the allocations might be on various land pieces, what might be the recommended revenue returned for independence. They're giving \$0.20 on a kilowatt that they're charging \$0.42 for. It's all kind of in that summary. And they're committed for like for 20 years, there's no opportunity for these people to come back in and say – okay I got a 20 year use agreement with you but every 7 years maybe we get to open the window on negotiating that rate depending on what's happening globally, what's happening with oil prices. So those kind of recommendations are supposed to be made by this committee that's there. You're going to read the plan and you're going to find out the number for renewable is long term, it's like 80%, 80%. What's not broken down in there is what portion is hydro, what portion is solar, what portion is... That's what the committee is supposed to be divulging for. I would strongly recommend that the Office of Economic Development, we've had that plan now for a year and half and we just have our energy manager here in the audience, let's get that thing started. Steve, you should be on it as it relates to what is the impacts that there could be on the County's financial picture and that we can start having that interaction. But the goal is pretty high, it's just not broken down and we need to start working that way and I would get somebody from Apollo Kaua'i to be on the committee, and somebody from KIUC, and somebody from our tax office. We need to do that part over here because until we do that and we have some of this it's pretty difficult to guess on the proformas. Has the tax office done any of these proformas?

Mr. Hunt: For individual projects?

Chair Furfaro: Yes.

Mr. Hunt: It's hard with the limited data we have to even understand them. We've looked at land residuals on a direct first year cap which are high. We've looked at over the life of 25 to 30 years but not knowing what a land residual return would be after the project's done, what the land value would be. So it's a lot of speculation as to what the value would be. Without data it's hard.

Chair Furfaro: Okay I'm going to quote somebody here.

Mr. Hunt: Okay.

Chair Furfaro: All things good are difficult at first. All things good are difficult at first. It wouldn't hurt us to try and gather some reasonable information so that we could make a couple proforma models and that we know what we're up against. Thank you Mr. Chang.

Mr. Chang: Thank you Council Chair. Go ahead Councilmember Rapozo.

Mr. Rapozo: I don't know if it's possible, can you give me like a 30 second layman's summary of how the best possible use, highest and best use and in fact does the income or revenue generated by that entity whether it's a hotel or industrial or whatever it is, does that play a role, I've heard comments to that effect this morning. I just, I don't believe that's true. Does in fact the revenue or the income generated by the property affect the assessment?

Mr. Hunt: The position on, we're pretty clear on the ordinance we use the market approach which is the sales comparison and we use the cost approach which is the replacement cost less the depreciation. Those are the two means that we have to value properties. That doesn't mean income is not important. Income can help substantiate discounts, we have issues with functional obsolescence, economic obsolescence, things like that when we're, when we have a hotel analogy- when you have a sale of a high end hotel like The Princeville and a more budget hotel like the Kaua'i Sands and say those are your only two sales but you have a variety in between. So going from the St. Regis to Kaua'i Sands as the two comps, you're going to have a way different price per room or price per acre however you want to analyze it. We have to find a way to say okay I've only got these sales to work with and I've got my cost numbers, but where do these other ones fit in. We look at the room rates, occupancy, we come up with what we call a rev-par analysis, revenue per available room, and we rank them, we stack them. We then say, okay based on this sale at 500,000 a room and this sale at 60,000 a room how would the Makaiwa stack up against that. So then based on its room rates and its potential revenue it would be 150,000 a room. So we do use income for a means of justifying our adjustments and it's very common practice on even the sales comparison approach to use income as a determination of how you arrived at your discount or your adjustment.

Mr. Rapozo: And in a case like this one really you don't have any historical data because it's a new project.

Mr. Hunt: Right.

Mr. Rapozo: And I guess what from what Mr. Bosshard said earlier, the comp was one sale, is that accurate?

Mr. Hunt: No, the comp actually included I believe 3 or 4 sales. But they weren't the best sales, one was a former contaminated site that had a, was on ag land but had an industrial use permit, was the former Brewer Environmental site that's being used for storing trucks. Another comp, the best comp obviously which you sited was the A & B sale to KIUC; the site was not really fully improved, it did have overhead utilities running across it. If you actually stood on the site you vibrated from the turbines next door. He's right, there really only was one buyer. But I think the price paid also reflected some discounting for being

so close to that energy generation on the market; no one else would've paid much for it.

Mr. Rapozo: Is that available for us I guess the...

Mr. Hunt: The Board of Review report?

Mr. Rapozo: Yes if you have something.

Mr. Hunt: Yes I can make a copy of that for you.

Mr. Rapozo: And that explains all of the comps and so forth?

Mr. Hunt: Yes.

Mr. Rapozo: I'm done thank you, and Steve you can disregard because Councilmember Nadine Nakamura said we have it in the, she has a copy of it, so we'll get it thank you.

Mr. Chang: Thank you for writing down the question though. Councilmember Bynum.

Mr. Bynum: So I just wanted to step back because, to what some of the testifiers were saying. They know what their revenue is going to be for 20 years based on production right, they know what their upfront costs were to install, those are known, the unknowns are how much energy are they going to produce. Is there going to be a really good year and a bad year. Although even that is somewhat predictable or else they wouldn't move forward. We have a sense of what the overall would be, but taxes does constitute an unknown right? You know, if you're being assessed at industrial rate at the current values my assumption is in 10 years those values will be much higher is that correct?

Mr. Hunt: If I had that crystal ball I wouldn't be doing this. It could increase or decrease more, I don't know where we're heading with the values I'm not going to comment on that.

Mr. Bynum: Well long term; unless the whole world changes, generally values increase.

Mr. Hunt: Right and supply and demand; if for some reason there is new industrial lands that become zoned and there's more supply then that may dampen pricing too, so it all depends.

Mr. Bynum: I mean first have you tried to resolve it at all?

Mr. Hunt: Yes.

Mr. Bynum: I see some value for them and some understanding of their uncomfortableness in terms of these are unknowns. So I'm 10 years into the project and now I'm facing 10 years of loss and they're pretty much fixed. I appreciate what you and Wally said about potential alternative; I even like what Mr. Rezentes said about could be either/or. But I am concerned for those people who would choose to make this investment, to give them some level of predictability and it would be nice and for them to come into at least from their testimony an assessed value at industrial that they weren't anticipating and maybe they should have. Maybe they should've done more homework if that's been our practice all along. I'm just thinking out loud here, maybe there's an alternative to give that predictability and then I kind of agree with Ken. I want Kaua'i to have the best incentive in the State, I want to attract those investment dollars. There's probably a saturation for solar but technology changes that, bring storage into the equation which storage costs are going down. Then the equation can be real different in 5 years and there can be more penetration. I'm kind of summarizing all the thoughts that I want to go through as we move through this and also the protection of really viable ag lands. The other thing we've learned today is you get into taxes and it's complex, it's going to be complex. And the Council is going to be talking about tax issues the next 3 or 4 months for sure so here we go.

Mr. Chang: Thank you Councilmember Bynum, Council Chair.

Chair Furfaro: Yes thank you just because I need to leave, this is the document that Council Vice Chair and myself worked on for almost a year and a half. It was presented to the Council in April 2010, on page 117 of the document it talks about the need for us to formulate this working group about all of these particular options and I'm not suggesting that anything get delayed here as we move forward. But that this forming of a sustainable energy team is extremely important, having members from the Farm Bureau, KEDB, DBEDT, environmental groups, Kaua'i Community College, it lists them all. And then in our budget session Steve the Council agreed on a presentation from Councilwoman Nakamura to fund the (inaudible) accounts would deal with this particular issue. Those money are broken up in 6 categories that are in Mr. George Costa's division. This is where we should be going with these pieces as we laid it out in the plan and it starts on page 117. I strongly suggest that on all of these other discussions that are taking place in front of the Council we move on the next step as it says here, the forming of a sustainability energy team using "CEDs" money in the Office of Economic Development which you should be part of. Thank you Committee Chairman.



Mr. Chang: Thank you very much, Chair.  
Councilmember Nakamura.

Ms. Nakamura: Sorry I have a couple more questions. One thing that I heard in the testimony earlier this morning was that people were concerned about fluctuations in industrial rates, value. I wanted to find out, do we have any data on industrial values on Kaua'i for the past 10 years to see.

Mr. Hunt: We can look at benchmarks for particular neighborhoods and show you where those assessments have gone.

Ms. Nakamura: Yes just to kind of get a sense of are we looking...

Mr. Hunt: More recently it's been decline, decline, decline.

Ms. Nakamura: Right, but even during the peak of the economic period was there a lot of fluctuation. That would help me.

Mr. Hunt: One of the bigger challenges I guess is sort of taking a small industrial lot, most of these lots are 10,000-20,000 square feet in industrial parks. That's where the transactions are occurring and in peak market they were \$26.00 or \$28.00 maybe, even over \$30.00 per square foot. Taking that and saying – how do you apply that to a 4 acre piece? We'll obviously have diminished returns and that is more of the challenge when we have very few, like the A & B piece was really the only acreage sized piece that we've had sell in a long time.

Ms. Nakamura: Okay and in terms of real property tax rates for ag and industrial areas, can you...

Mr. Hunt: The rates are identical on land. Industrial, commercial, resort, ag, and conservation, those 5 categories are all paying at a rate of \$6.90 per thousand assessed. So it's the assessment level not the rate that is really the step up if you will.

Ms. Nakamura: Okay thank you.

Mr. Chang: Thank you Councilmember Nakamura. Any other questions? I guess I'll just end this for now, this part, with a quick question. I had a discussion with you, you know when it's reported in the Garden Island Newspaper and it's big news, many times the headline and or definitely the front



page, we have the Kapa'a Solar Project that Mr. Bosshard did enthusiastically, then of course we hear from Kukui'ula, then we hear from Alexander & Baldwin, then we hear from Po'ipū Solar, and it seems so good. I've been excited because I've been wanting to put it on the agenda because I'm going to very soon have PMRF tell us about all the wonderful things happening there. Can you comment or are we having, a question I asked you a while back was – are we going to have problems downstream? In light of what Mr. Bosshard had brought up, can you give us an update on what Kikiaola is, are they moving along or are they having similarities as far as problems or concerns or where are we with Kikiaola?

Mr. Hunt: You know, that's probably a question directed to Planning because right now the ordinance requires use permits with the exception of, if you're doing this on industrial. But aside from the A & B proposed project I believe all of these are on lands that would require use permits so they're in various phases of getting use permits. I was able to glean a little bit of information by going to Planning and pulling the AES use permit file to find out, I think it's 20.5 acre area that they lease but it's only about 18.8 acres that is concerned in part of that use permit. It's even unclear as to the preservation whether they're leasing the preservation might be part of the 20 acres. But no, there's no financial proforma attached or anything for me to get additional information.

Mr. Chang: Okay thank you. If there's no further questions thank you very much, thank Mr. Hunt, Mr. Rezendes.

Mr. Hunt: Thank you Councilmembers.

Mr. Chang: Any other members of the audience would like to comment on this agenda item? Mr. Bosshard. And Mr. Bosshard before you start your testimony are you here specifically to answer the question posed by Councilmember Nakamura?

Mr. Bosshard: Yes and a couple of other items.

Mr. Chang: Okay before you start, Councilwoman Nakamura would you like to state that question?

Ms. Nakamura: I just wanted to find out what was KIUC's limit in terms of collecting solar energy into their grid system.

Mr. Bosshard: It raises a great point, KIUC is way out ahead of the other utility, primary utility is HECO which has a 15% cap as I understand it. What I'm told by KIUC is that the Kapa'a Solar facility can produce at the high point which would be roughly 1,000 kilowatts per hour, 85% or so of that

circuit's use. 85% versus 15%. Now what that means is KIUC is way out in front of everybody from South Dakota to Washington to Idaho to Honolulu on this curve. They're using the Kapa'a Solar site as a basis or an experiment as to how their whole business orientation-production can handle that, and that it's been successful. I don't know a lot about how much benefit this has been to KIUC to have this test site but I do know that they bring everybody out there from Washington D.C. to wherever to come here as to show that they've got something going and to parlay that into world utility service money perhaps or showing that Kaua'i is out in front of the bank. You read the articles in the paper and we're hopeful that there's going to be all these projects but the bottom line, this project is the biggest project in the State and it's unique and people are coming here to look at it. This is part of what I'm saying is – take the momentum and build on it. I know you have to get bogged down on the details fairly but move on it quickly because time is of the essence in doing that. Now there are couple of other comments that I had if that's okay.

Mr. Chang: Go ahead.

Mr. Bosshard: JoAnn I never thought I'd hear the day that I'd hear you say that the price of oil might be going down and we need to take that into consideration.

Ms. Yukimura: Short term.

Mr. Bosshard: Short term? Okay well I think obviously that's going to be a minor factor. If we're going to start to use that as a concern in this process then we got a problem because everything I've ever heard for the last 20 years is that ultimately we're running out of oil, and the price of oil is going to go up.

Ms. Yukimura: (inaudible)

Mr. Bosshard: So I think that that is a safe assumption. KIUC, when they get assessed a rate like 1.85% or 2.00%, the other figures that they were throwing around, they just pass it on to the ratepayers. They're a monopoly. Although they are us, there isn't much of an incentive not to just pass the expense along to the ratepayer. So we can't pass anything along, we're fixed on a \$0.20 fee. I would oppose that gross revenue assessment. The other thing is I don't think you have to worry so much that there's going to be so many of these projects that they're just going to overwhelm the island. In terms of the...

Ms. Laureta: 3 minutes Chair.

Mr. Chang: That was your first 3 minutes, go ahead.

Mr. Bosshard: In terms of the Alexander & Baldwin project and whether this is oriented towards them it seems like the tax office in figuring this out said, well A & B said they're going to do this and they're going to do it on industrial land so how do we protect them in this fashion? As he said, the only industrial lots we really have are these, and the other comparable was from the Puhi Industrial Park where you're taking 10 or 20,000 square foot lots and you're projecting from their value into a 4 acre parcel and that's how we came to ridiculous numbers of the assessment that I received. Proof is in the pudding, and the pudding is what happened to me or Kapa'a Solar. As far as using comparables on the mainland there are so many variables in this. I believe that some jurisdictions, probably South Dakota, that the price per kilowatt for power for an individual would be less than \$0.10 per kilowatt. The cost of doing business there is very very small. They have plenty of oil and gas, they don't look toward solar. I would say that's a "red herring" and not to go the direction of trying to be like somebody else, whether it's Honolulu, Maui, or anybody else. As to not taxing the improvements I don't think the County, I know the Building Division, I don't believe there's structures, you don't get a permit for the post that I put up to put the solar panel on. So when Mr. Hunt says we're giving up on all this money that we could otherwise have again a "red herring." Everybody says they want Kaua'i to be the most attractive place for solar or that they think this is a good idea, here again the proof is in the pudding. I really appreciate you guys taking this kind of serious thought on this. I know you guys will struggle with these issues, thank you.

Mr. Chang: Councilmember Nakamura has a question for you.

Ms. Nakamura: Finance Department tossed up the idea as an alternative looking at the public service tax, the 1.885% of gross revenue in lieu of any real property tax. What are your thoughts about that alternative?

Mr. Bosshard: That number came from what KIUC pays, I believe, and that was part of the point I was trying to make about whatever date our assessed, they're a monopoly – they just pass it along to us. We don't really have anybody to monitor that. I wouldn't mind it being set at a certain percentage but the cost of doing business on Kaua'i is more than probably any place else in the Country. And so since I'm not a monopoly and I don't get to control my costs, and I don't get to pass it along to anybody or along to the ratepayer, I wouldn't mind a percentage but I think that would be high.

Ms. Nakamura: I'd be interested, and I'm just tossing this out because it just came up today. If you would think about that it seems that that might level the playing field for alternative types of renewable energy.

Mr. Bosshard: Yes.

Ms. Nakamura: Because you're looking at amount generated rather than the configuration or lot coverage of the different types of renewable that are out there. So just wanted you to think about that and if you have any further thoughts, doesn't have to be today.

Mr. Bosshard: Well I was thinking about it in the back of the room and it does make sense to me except that the rate is high because I can't pass it along and because the cost of doing business here on Kaua'i is great.

Ms. Nakamura: So if you have any alternative ideas then I would be interested in knowing what that would be.

Mr. Bosshard: You'll never get a, I'm not going to know for years how this all works out so you're looking from Steve or myself, you're looking for this formula; you're not going to get one. You're going to have to go on your own instinct and whether you think you're really making Kaua'i to be the attractive place for all this to happen. My opinion is you're not going to be inundated with these projects. Apparently there's some feeling that they're all going to come here for some reason. We'll see and I reserve the right to be wrong.

Ms. Nakamura: Thank you.

Mr. Chang: Councilmember Bynum.

Mr. Bynum: Councilmember Nakamura asked a question I was going to ask, but I said earlier, you have these unknowns and taxation is a big unknown right? I mean I think you would share my assumption that 10 years from now it'll probably be a lot higher than it is now. So this percentage idea would provide predictability, it would have some comfort level. I might even be willing to pay a little bit more now if I knew that that was what it was going to be in 15 years right? I just want to think about that.

Mr. Bosshard: That's true, I'm not resisting the concept. I'm really a lot more worried about this industrial thing because when you talk about what the cost are going to be and how much difficult it is to be zoned into industrial, that pool of land is not going to be there. The infrastructure on that industrial is going to be so much and the values are going to be so high or it's going to be so finite that those costs are just going to continue to skyrocket. That's, I think I've been consistent through all of this is – don't put it in industrial or you're just going to allow, I'm going to be competing with the most intense activity in the market.

Mr. Bynum: I understand that point but we have to think about not just the projects that are on the ground that's why I really hoped to have this nailed down 2 years ago so people would know and could make their proformas based on that knowledge. But we have to think about the impact of whatever decision we make here on biomass, on biofuels, on algae, on hydro, on wind – what's the implication for all of that?

Mr. Bosshard: Well I'm glad you came to the understanding that my 4 acres passive solar panels that don't have anything going on over there are going to get that 4 acres is going to be tax assessed the same as a biofuels plant. If that makes any sense to anybody that in this whole years of discussion about alternative sources of energy I would have a hard time believing that that's going to be seen as equitable.

Mr. Bynum: I understand.

Mr. Bosshard: So that makes me suspicious of the whole set-up here and about the large land holders and how they're getting inside (inaudible). They don't have to come down here and take your time up because the tax office is taking care of them not accidentally.

Mr. Bynum: Thank you.

Mr. Chang: Anything further questions for  
Mr. Bosshard.

Mr. Rapozo: I have a question. You said something earlier about you really don't know, how long you think before you have even an idea, a pretty realistic idea of whether or not your project is even going to be...

Mr. Bosshard: Six or seven years probably.

Mr. Rapozo: Okay. Then you can have a better understanding of what's going on?

Mr. Bosshard: That's right.

Mr. Rapozo: Okay interesting. I'm just looking at this ordinance from 1980, interestingly Councilmember Yukimura was on the Council at that time, you're the only one left. Back in 1980 they talk about tax exemptions back then and there was an exemption for property use of manufacturing pulp and paper. I would assume back then it was an incentive, they needed to produce paper or pulp from bagasse so they created this ordinance. But they said the exemption was good for 5 years from the first day of the, and I'm assuming like you at that

time it was unknown – we didn't know. So we said – you know what we're going to do, we're going to exempt, completely exempt on that industrial, whatever that case might be, for 5 years and then...I'm just saying that's another option for us, if we want to incentivize alternative energies.

Mr. Bosshard:

That's right.

Mr. Rapozo: I almost feel like we're building a wall right here and saying – hey we don't want to give away the store but want them to come in. I'm really feeling uncomfortable, it's almost like we're trying to not be difficult but we're being difficult. That's how I feel personally so I have a lot of reading to do again. I'm not on this committee but I'm just reading this thing and interestingly they have quite a few exemptions back then. All of the new exemptions came with a time period and some are 5, some are 7, and I don't know what that number is. Because it's such a new project...

Mr. Bosshard:

I think the community would say...

Mr. Chang: Mr. Bosshard hold on please, did you want to pose him a question or was that just a.

Mr. Rapozo: I hoped to get a response, I didn't phrase it as a question but your comments?

Mr. Bosshard: I think that the community, most of it I mean you can't please all the people all the time, would say you can't go wrong by trying to attract this kind of investment. I mean we've built all of this foreplay up to where there's now some interest, grab it.

Mr. Chang:

Thank you. Ms. Allione.

Ms. Allione: Everyone is probably fairly exhausted by now so I'll make it brief. Just a couple of comments...

Mr. Chang: I'm just going to ask you to state your name for the record.

Ms. Allione: Jody Allione back again, Po'ipū Solar. On O'ahu we were under the, I was using the wrong designation and the term came up "utility lots," that is the category that we were told by the land planners and the County when we started the work that we would fall into that designation. Which is why we did not need a special use permit on O'ahu. We have to do a small use permit but it's non-public, it's a very non-discretionary permit. We were planning on moving into the area of utility, now that we hear that HC&C is looking at changing

it to industrial, it's news to us as well as this was. Just for the record I am now representing my third mainland solar company. The other two came in here with big money, big plans, wide eyes, all excited. They didn't last very long because it got just chewed to bits with one thing after another. The projects that we're looking at sound huge, are very very hard to finance. Three megawatts on Kaua'i, it's too small for mainland investors to traditionally finance, it's too large of the banks of Hawai'i, we can't get a Hawai'i bank that is interested in putting up the funding for a project of \$15 million on its own. The tax laws are "skitzy," we're not even sure how the interpretation of the State Tax Law is going to fall in place with respect to these projects. They may not change the law but the Department of Taxation can change the interpretation, another big unknown. So with respect to this 1.885%, I ran some quick numbers, I'm not the analyst in the company I think just based on my telephone calculator it might work out. It probably falls within the range if I haven't done something wrong with the math, so from our standpoint because I've expressed the willingness to go higher, if we went to a number like that that gave us predictability it would at least alleviate that huge concern. I do suspect the number would clobber Mr. Bosshard's project. The economy's scale works for us, on the cost per acre it's difficult because we have never ever seen anyone able to build projects unless in 5 acres per megawatt. So when you see people talking about 3 acres, it gives me cause as to wonder if they really know what's going on in this business. What we do find out as we progress through development, things change. I mean you go in with one proforma that looks like this and it changes monthly. Those numbers are eroded, the net present value on the profits of this project are very low over a 20 year period. So I would welcome a certainty and I hope that we do get to that point. I'll also volunteer to give input wherever we can on any committees, thank you for your time.

Mr. Chang: Thank you Ms. Allione, does anybody have a question? Are there any other members of the audience that would like to testify on this agenda item? If not, we will call the meeting back to order. Members, Councilmen and women any comments? Councilmember Bynum.

There being no objections, the meeting was called back to order and proceeded as follows:

Mr. Bynum: I really appreciate the dialog today and the input from the tax department and the developers. This is, as all of the issues that we're going to deal with within the next few months, it's complicated and we're starting to wrap our brains around it. I do, I think the long term benefits for our community are tremendous. We're paying \$0.43/kilowatt, we heard that KIUC is negotiating at \$0.20 for 20 years. That's not going to pay a big dividend to the community in the long run. I think it's almost unquestionable that in 15 years, the rate if we stayed with fossil fuel might be \$0.80/kilowatt. So this is an investment we really need to make and in the bigger picture the tax revenue difference for the



County between a very strong incentive and not so strong incentive because I believe regardless we're going to have a really strong incentive. But in terms of the tax revenue generation of a pragmatic basis, we're not talking about big differences. So if some investment dollars come in to the State or once into this arena, and we have an attractive situation that's predictable, that is, I think, in our community's very strong interest. I want us to have a strong incentive for alternative energy so given all of that I'm hopeful that we can defer this today after discussion and give us some time to think about some of the ideas and proposals we had today, run them by the Administration and others. I'm contemplating a potential amendment, but I think this is very important for our sustainability future.

Mr. Chang: Any other comments from Councilmembers, Committee Members? Vice Chair.

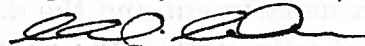
Ms. Yukimura: I just want to say I too appreciate what the Real Property Tax Division and our Finance Director have provided and I really appreciated Ms. Allione and Mr. Bosshard have given. It's helping us to "put our arms around the issues," and maybe craft some creative amendments that might work for everybody. I think we do need more time and I'm ready to vote to defer.

Mr. Chang: Any other Councilmembers? If not, thank you very much for the wonderful discussion. I want to thank the members of the public and everyone for testifying. This is in many cases, "swimming into uncharted waters," so I do agree with the members that we are going to recommend, we're going to need more time for discussions and or possible amendments. What I'm planning to do, if I can I'm going to ask for a deferral and I'm hoping to bring it back into the Committee. Next Committee Meeting would be October 26, 2011 if that is alright for Councilmembers. I'll be specific on a deferral for date specific Wednesday October 26. Can I get a motion to defer?

Upon motion duly made by Councilmember Bynum, seconded by Councilmember Yukimura, and unanimously carried, Bill No. 2415 was deferred.

There being no further business, the meeting was adjourned at 3:58 p.m.

Respectfully submitted,



Ihilani C.J. Laureta  
Secretary

APPROVED at the Committee Meeting held on November 9, 2011:

  
DICKIE CHANG  
CHAIR, EDR COMMITTEE